

EXHIBIT NO. 31

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# San Diego Municipal Employees Association

## BY-LAWS

### ARTICLE I

#### PURPOSE & OBJECTIVE

Section 1. The purpose of the San Diego Municipal Employees Association is to provide strong, dignified and responsible representation to it's members in order to attain the following:

(a) To represent the public employees in all personnel matters including, but not limited to the payment of adequate wages and the promotion of satisfactory hours and working conditions.

(b) To uphold and safeguard the merit system.

(c) To promote tolerance, fair play and loyalty in support of the fundamental principles of a good and efficient government.

(d) To unite and improve the image of public employees.

(e) To protect and improve retirement benefits.

(f) To provide consumer services which enhance the economic welfare of the membership.

### ARTICLE II

#### MEMBERSHIP

Section 1. There are four (4) types of membership available within the Association, each with corresponding rights, privileges and duties. The types of membership are **Regular**, **Associate**, **Retiree** and **Honorary**. Application for membership shall be made in writing on a form approved by the Board of Directors.

Section 2. Any employee of the City of San Diego employed in a bargaining unit, which the Association exclusively represents, is eligible to become a **Regular Member**.

Section 3. A **Regular Member** shall enjoy all rights and privileges of membership including, but not limited to the following:

(a) The **RIGHT TO VOTE** in all elections and on all matters submitted to the membership for a vote, including but not limited to the ratification of a Memorandum of Understanding, and the nomination of candidates for office or for the Board of Directors. A **Regular Member's** right to vote shall only ripen when the employee has applied for membership and has paid dues for sixty (60) calendar days preceding the last day to vote. Each **Regular Member** may cast one vote, whether at a meeting or by mail ballot, but may not vote by proxy.

(b) The **RIGHT TO HOLD OFFICE** when the **Regular Member** meets the following eligibility criteria:

(I) **Board of Directors:** At the time of determination of his or her eligibility to be a candidate, a **Regular Member** must be an "active employee", as defined by the City's Personnel Regulations, must have been an "active member" for one (1) full year, and must have been a **Regular Member** of the Association for one (1) full year.

(II) **Executive Committee:** At the time of determination of his or her eligibility to be a candidate, a **Regular Member** must be an "active employee", as defined by the City's Personnel Regulations, and must have completed one (1) full term or a minimum of one (1) year and ten (10) months as a member of the Board of Directors.

(III) **Officers:** At the time of determination of his or her eligibility to be a candidate, a **Regular Member** must be an "active employee", as defined by the City's Personnel Regulations, and must have completed one (1) full term as a member of the Executive Committee.

(IV) **Negotiating Team:** At the time of determination of his or her eligibility to be a candidate, a **Regular Member** must be an "active employee", as defined by the City's Personnel Regulations.

(V) **Active Status:** Those **Regular Members** elected to serve on the Board of Directors, Executive Committee, the Negotiating Team, or as Officers, must maintain their status as "active employees" throughout the term of service. However, neither this requirement of "active" status at the time of determination of eligibility to be a candidate, shall apply to those **Regular Members/Employees** who become "inactive" on the City's payroll due to their paid status with Association. Any Officer or member of the Board of Directors or Executive Committee who seeks an exemption from their requirement of maintenance of "active" status shall apply in writing to the Board of Directors, who may grant an exemption by two-thirds (2/3) vote.

(c) The **RIGHT TO INDIVIDUAL REPRESENTATION BY ASSOCIATION STAFF** at the request of the **Regular Member**, unless the event which prompts the request occurred prior to the employee's application for regular membership. In such case, the **Regular Member** must pay to the Association a lump sum which is equivalent to the difference between ~~six (6)~~ Twelve (12) months of dues and what the member has paid in dues prior to his or her request for representation, and the member must thereafter maintain his or her membership in the Association for one (1) year.

(I) Notwithstanding this general right to individual representation by Association for one (1) year.

(II) Notwithstanding the monetary obligations for past unpaid dues described in (c) above, the Board of Directors, by a majority vote, may give employees the opportunity, during open enrollment each year, to join the Association and receive immediate individual representation by Association staff with no such monetary obligation for the past unpaid dues.



Section 4. A **Regular Member** accepts the obligation to pay dues in the amount and at the times established by a majority vote of the Board of Directors, as a condition of continued membership.

(a) Seasonal and hourly employees who are **Regular Members** and whose status becomes "inactive" due to a lack of work, have no obligation to pay dues during periods for which they do not receive a paycheck. However, these employees shall also not enjoy the customary rights and privileges of membership during such periods of nonpayment of dues, except the right to individual representation by Association staff on any matter which occurred during the member's active employment if the member would otherwise be eligible for such representation pursuant to Section 3 (c) above. Moreover, these seasonal and hourly employees who are **Regular Members** may continue to pay during periods of "inactive" employment in order to preserve in full force and effect all the rights and privileges of membership, but shall automatically lose such rights and privileges upon failure to pay dues. In either case, however, the employee's membership shall not lapse and he or she need not reapply for membership upon return to "active" status.

(b) Any **Regular Member** who seeks an exemption from this obligation to pay dues shall apply in writing to the Membership Executive Committee, which shall refer review the application and ~~its recommendation to the Board of Directors for action~~. The Board of Directors Executive Committee may grant an exemption by a two-third (2/3) vote.

Section 5. Any employee of the City of San Diego employed in a classification or bargaining unit for which the Association is not the exclusive bargaining representative, is eligible to become an **Associate Member**.

Section 6. An **Associate Member** shall enjoy all the rights and privileges of membership **EXCEPT**:

(a) The **Right to Vote** on the ratification of a Memorandum of Understanding or any other agreement negotiated between the Association and the City of San Diego pursuant to the Meyer-Miliias-Brown Act;

- (b) The **Right to Vote** for **Negotiating Team** members;
- and,
- (c) The **Right to Hold Office** as an Officer, member of the Board of Directors, Executive Committee or Negotiating Team.

Section 7. An **Associate Member's** obligation to pay dues shall be the same as a **Regular Member's**, and the same exemptions and opportunity to apply for an exemption shall also apply.

Section 8. Any **Regular Member** or **Associate Member**, who retires from employment with the City of San Diego after continuous membership in the Association for one (1) full year immediately preceding his or her retirement, is eligible to become a **Retiree Member**.

Section 9. A **Retiree Member** shall enjoy all rights and privileges of membership **EXCEPT**:

- (a) The **Right to Vote**;
- (b) The **Right to Hold Office** as an Officer, member of the Negotiating Team, Executive Committee or Board of Directors unless the **Retiree Member** serves on the Board of Directors as the representative of the San Diego Retired Employees' Association;
- (c) The **Right to Individual Representation by Association Staff** except the right to individual representation on any matter which occurred during the member's active employment if the member would otherwise be eligible for such representation pursuant to Section 3 (c) above and,
- (d) The Right to Association-paid life insurance.

Section 10. A **Retiree Member** accepts the obligation to pay dues in the amount and at times established by a majority of the Board of Directors, as a condition of continued membership. A **Retiree Member** shall enjoy the same privilege to apply to the Membership Committee for an exemption to this obligation as **Regular** and **Associate Members** enjoy.

Section 11. Upon the recommendation of the Membership Committee, the Board of Directors, by a two-thirds (2/3) vote, may make any person an **Honorary Member** of the Association and may determine the length of such membership, as well as the rights and duties of such member.

(a) Any person who is currently a **Lifetime Member** of the Association shall become an **Honorary Member** on the effective date of these revised **BY-LAWS**, and shall continue to enjoy the same rights and privileges and have the same obligations as were in effect when he or she became a **Lifetime Member**.

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Section 12. The Board of Directors, by two-thirds (2/3) vote, may **terminate** any **Regular, Associate, Retiree or Honorary** membership for just cause. The Board of Directors, on recommendation from the Membership Committee, shall give written notice to the member, at his or her last known address of the time, and place of the member's opportunity to be heard by the Board of Directors prior to any vote to terminate, such notice shall provide the member with a minimum of ten (10) days' notice of the date and time of the hearing. The member shall have the right to be represented in this hearing before the Board by an attorney or by any other person the member selects, and shall have the right to present the testimony of witnesses. After the member has had this opportunity to be heard, the Board shall deliberate and vote by secret ballot in a "closed" session outside the presence of the member and/or the member's representative, who shall receive written notice of the decision within five (5) days of the hearing.

(a) "Just cause" for termination of membership includes, but is not limited to a member's conduct or speech by which he or she intends to undermine the purpose and objective of the Association, or the legitimate duties of the Association's Staff, Officers, Committees, Board of Directors, and Negotiating Team. However, no "just cause" for termination of membership arises when a member exercises his or her freedom of speech at appropriate times and in appropriate forums, to criticize constructively the work, decisions and leadership of the Association's Staff, Officers, Committees, Board of Directors or Negotiating Team.

(b) Any member who alleges that "just cause" exists for termination of another member's membership shall present such allegation,

in writing, to the Membership Committee for its review, investigation and recommendation for action by the Board of Directors.

(c) A **Regular, Associate or Retiree Member's** failure to pay dues shall result in an **automatic termination** of membership, without a hearing or an opportunity to be heard, as follows:

(I) Failure of a **Regular or Associate Member**, which is an "active employee", to pay all unpaid dues within ten (10) calendar days of the date of the Association's written notice of delinquency, or failure to pay dues for three (3) consecutive pay periods, whichever failure occurs first;

(II) Failure of a **Retiree Member** to pay all unpaid dues within ten (10) calendar days of the date of the Association's written notice of delinquency; and,

(III) The effective date of the member's termination shall be retroactive to the first day of the period for which the member owed dues and did not pay them.

(d) A member whose membership has been automatically terminated for a failure to pay dues may reapply for membership at anytime. A member whose membership has been terminated for just cause by a two-thirds (2/3) vote of the Board of Directors, may apply for reinstatement by written request to the Membership Committee, which **shall refer** to the request a recommendation to the Board of Directors for action. By a two-thirds (2/3) vote, the Board of Directors may reinstate the former member.

Section 13. The Association shall not dissolve as long as there are twenty-five (25) **Regular or Associate Members**.

Section 14. At least one regular meeting for the members shall be held on the last Tuesday in July, each year, at the Association's meeting hall, 4185 Home Avenue, San Diego, California. The purpose of this annual meeting shall be to make reports, provide information and answer questions regarding the Association's purpose, objectives, activities and accomplishments during the prior year and its plans for next year. No

quorum of members shall be necessary and, in any event, no official business may be transacted or vote taken on any matter.

It shall be the duty of the By-Laws chair to remind the President and/or General Manager of the annual meeting sixty (60) to ninety (90) days in advance.

(a) Elections and all other business of the Association which require a vote of membership shall be conducted by mail or interoffice mail ballot in accordance with rules and procedures adopted by the Board of Directors, except where the Elections Committee recommends to the Board of Directors a more appropriate procedure.

### ARTICLE III

#### BOARD OF DIRECTORS

Section 1. The Board of Directors shall be the governing and policy-making body of the Association, except as otherwise provided by these BY-LAWS.

Section 2. Each Director shall perform his or her duties in good faith, in a manner which he or she believes is in the best interest of the Association and with the same degree of care as an ordinary, prudent person in a like position would use under similar circumstances.

Section 3. The Board of Directors shall consist of five (5) Officers, the immediate Past President, the members of the Executive Committee, and one (1) Retiree Member who represents the San Diego Retired Employees' Association, and the directors elected by each department in accordance with the provisions of this Article.

Section 4. Each Department shall elect one or more Directors as follows:

<u>Department</u>	<u>Number of Directors</u>
Auditor.....	1
Development Services.....	3
City Attorney.....	2

City Clerk.....	1
City Council/City Manager/Legislative Services/Mayor.....	1
Engineering Department.....	2
Environmental Services.....	1
Financial Management.....	1
Fire.....	2
General Services.....	4
Library.....	2
Metropolitan Wastewater.....	2
Neighborhood Code Compliance.....	2
Park and Recreation.....	4
Personnel.....	1
Planning.....	1
Police.....	4
Property.....	1
Purchasing.....	1
Retirement.....	1
Risk Management.....	1
Treasurer.....	2
Water Utilities.....	4

In the event the City reorganizes City Departments the Board may vote to change the above list to accurately reflect the Department name and/or adjust the number of representatives to reflect geographical locations and/or number of members.

Section 5. In those Departments entitled to more than one (1) Director, no Division shall elect more than one (1) Director. There shall be no alternate.

Section 6. In May of each odd-numbered year, the Election Committee shall conduct an audit of the City's workforce and Departments and investigate any petition from employees within a Department who seek an additional seat on the Board due to the geographic isolation of their work site. The Committee shall make recommendations to the Board of Directors for any changes in the number of Departments and/or number of Directors to be elected by a Department. The Board, by a simple majority vote, at its June Board meeting in odd-numbered years shall determine the final list of seats to be filled in the July election.

Section 7. The Board of Directors, upon the recommendation of the Election Committee, shall certify, by a simple majority vote, the list of eligible candidates for election in the Board of Directors based on the following criteria:

(a) The nominating petition bears the candidate's signature plus the signature of ten (10) **Regular or Associate Members** who are eligible to vote; and,

(b) The candidate is an "active employee" who has been a **Regular Member** of the Association for one (1) full year preceding the date of determination of eligibility.

Section 8. Eligible members shall elect their Board of Directors by mail ballot in accordance with rules and procedures adopted by the Board of Directors, upon recommendation of the Elections Committee; Directors shall be elected during the month of July of each odd-numbered year.

Section 9. Duly-elected Directors shall serve a term of two (2) years, or until their successors are elected and sworn. Directors shall normally be sworn in September of each odd-numbered year and shall take office at the first regular or special Board meeting which follows their taking the oath of office.

Section 10. The Association shall maintain at all times in its business office a list of the names of all current Directors, the Departments they represent, and the dates when each Director's term of office begins and ends.

Section 11. The Executive Committee, by a simple majority vote, shall confirm or reject the President's appointment of an eligible **Regular Member** to serve as Director of any Department which did not fill its seat by election, or to fill a vacancy on the Board created by a Director's voluntary resignation or involuntary removal.

(a) Only an eligible **Regular Member** from the Department affected may be appointed, and such appointment shall be limited to one (1)

term. The appointee shall thereafter seek nomination and election as candidate, if he or she wishes.

Section 12. Meetings of the Board of Directors shall be open to the entire membership.

Section 13. Customarily, the Board of Directors shall meet at least once each month, at a time and place designated by the Board. Customarily, each member of the Board shall receive seven (7) days' advance notice of the agenda for the monthly meeting. However, a supplemental agenda may also be sent to each member of the Board, by mail or by telecopier, at least three (3) days prior to the monthly meeting. Nevertheless, by the unanimous vote of the Board members in attendance at the monthly meeting, the agenda may be modified to add any item of business.

(a) The president may call special meetings of the Board of Directors from time to time, and must call such a special meeting upon the written demand of at least ten (10) Directors. In the case of such a written demand, the special meeting shall be convened on a date which is at least five (5) days but not more than ten (10) days after the date of the written demand. Written notice of the time, place and reason of such a special meeting shall be sent to each Director in sufficient time to provide three (3) days' notice. The notice shall state the purpose of the meeting and the Directors, when convened, shall address that purpose.

Section 14. Each member of the Board of Directors shall have one (1) vote. No director may authorize another Director or any other person to vote or otherwise participate in his or her place at a meeting of the Board.

Section 15. The Board of Directors may transact business during any regular or special meeting at which at least one-third (1/3) of the sitting Board members are present. Unless otherwise specified in these BY-LAWS, every act done or decision made by a simple majority vote of the Directors during a meeting duly held, at which a quorum is present, is the act of the Board of Directors.

(a) A two-thirds (2/3) vote of the Board of Directors shall be required to amend these BY-LAWS except Article X of these BY-LAWS



which expressly requires a vote of the membership and may not be amended by the Board of Directors.

Section 16. A member of the Board of Directors shall be deemed to have abandoned his or her seat and shall be automatically removed from the Board upon his or her third unexcused absence from either regular or timely-noticed special meeting during his or her two (2) year term.

(a) An absence is deemed excused by a simple majority vote of the Executive Committee.

(b) The President shall direct that a written notice be sent to the Directors to remind him or her when two (2) unexcused absences have accrued and to warn of the consequences of a third unexcused absence.

(c) The President shall appoint and the Executive Committee, shall either confirm or reject the appointment of an eligible **Regular Member** from the appropriate Department to fill the vacancy in accordance with Section 11 of this Article.

(I) If the removal actions originates with the Board, the motion for a removal hearing must be made, seconded and, present or not, Director shall be notified in writing of the action and the reasons, and shall be given the opportunity to be heard at the next regular Board meeting, at which time the Director may be represented by counsel or by anyone he or she selects, and at which the Directors may present the testimony of witnesses. After the Director has had this opportunity to be heard, the Board shall deliberate and vote by secret ballot in a "closed" session outside the presence of the director and/or Director's representative, who shall receive written notice of the decision within five (5) days of the hearing. A decision to remove the Director requires a two-third (2/3) vote of the Directors, notwithstanding the requirement of a simple majority vote to bring charges and conduct a hearing. If the Board removes a Director, the President shall appoint, and the Executive Committee shall either confirm or reject an eligible **Regular Member** from the appropriate Department to fill the vacancy in accordance with Section 11 of this Article.

(II) If the removal action originates with a recall petition, the Board shall direct the Elections Committee to investigate the validity of the petition, the eligibility of the members who signed the petition, and the total number of eligible voters in the appropriate Department or Division. The Election Committee shall report its findings to the Board which shall confirm or reject the recall petition. If the Board confirms the petition, a new election shall be conducted to fill the vacancy.

## ARTICLE IV

### EXECUTIVE COMMITTEE

Section 1. The Executive Committee shall consist of the five (5) Officers and six (6) Directors elected by the Board of Directors.

(a) At the time of determination of his or her eligibility to be a candidate, a **Regular Member** who wishes to serve on the Executive Committee must be an "active employee", as defined by the City's Personnel Regulations, and must have completed one (1) full term or a minimum of one (1) year and ten (10) months as a member of the Board of Directors. However, a current member of the Executive Committee shall also be eligible for re-election to the Executive Committee.

(b) The Board shall elect the six (6) members at large at the July Board Meeting in odd-numbered years.

(c) Each Director elected to serve on the Executive Committee shall serve a two (2) year term.

(d) The six (6) members at large elected by the Board of Directors shall consist of not more than two (2) Directors from any one (1) department.

Section 2. The Executive Committee shall have the authority to conduct the business of the Association. However, it may not modify any policies or actions of the Board of Directors. The Executive Committee may make recommendations on all policy matters to the Board of Directors.

(a) In order to authorize an expenditure of Association funds which is not otherwise authorized by an approved budget, an unanimous vote of the Executive Committee is required. This vote may be given in a meeting by telephone, or by telecopier, or electronically. A report of such actions shall be made at the next meeting of the Board of Directors.

Section 3. Meetings of the Executive Committee shall be held at least once a month at the call of the President.

(a) The Executive Committee may transact business at any meeting at which no fewer than seven (7) members are present.

(b) Each member of the Executive Committee shall have one (1) vote but may not vote by proxy.

(c) A member of the Executive Committee shall be deemed to have abandoned his or her seat and shall be automatically removed from the Executive Committee, as well as from Office or the Board, as the case may be, upon his or her third unexcused absence from a Committee meeting during his or her two (2) year term.

(I) The President shall direct that a written notice be sent to an Executive Committee member to remind him or her when two (2) unexcused absences have accrued and to warn of the consequences of a third unexcused absence.

(II) An absence is deemed "excused" by a simple majority vote of the Executive Committee members.

Section 4. In the event that a Member-at-Large position on the Executive Committee becomes vacant, the vacancy shall be announced to the Board of Directors at the next regularly scheduled Board meeting, and a written announcement shall also be mailed to each Board member within ten (10) days of the Association's receipt of notice that the vacancy exists. The vacancy shall be filled at the next regularly scheduled Board meeting which occurs at least ten (10) days after the written notice has been sent. In the event that an Officer position on the Executive Committee becomes vacant, the vacancy shall be filled in accordance with the provisions of ARTICLE V.

## ARTICLE V

### OFFICERS

Section 1. There shall be five (5) Officers of the association: President, First Vice President, Second Vice President, Secretary, and Treasurer.

(a) The Officers shall hire and supervise the General Manager in conformance with the BY-LAWS and policies of the Board of Directors.

Section 2. Election of Officers shall be held in each even numbered year.

(a) To be eligible to be a candidate for office, at the time of determination, a **Regular Member** must be an "active employee", as defined by the City's Personnel Regulations, and must have completed one (1) full term as a member of the Executive Committee.

(b) At the August meeting of the Board of Directors in each even numbered year, a Nominating Committee will be selected in accordance with rules established by the Board of Directors. The Committee shall nominate at least one (1) candidate for each of the offices of President, First Vice President, Second Vice President, Secretary, and Treasurer. At the September meeting of the Board of Directors, the nominating Committee shall present its nominations.

(c) A call for nominations shall be published in an official Municipal Employees' Association publication prior to the August meeting. The notice will list eligibility requirements for the positions to be elected and explain the procedures for nomination.

(d) Members of the Nominating Committee cannot be nominated for office by the Nominating Committee.

(e) Candidates for any office may also be nominated by a nominating petition signed by the candidate and at least ten (10) regular members. All nominating petitions must be filed with the Nominating Committee prior to the close of the September Board of Directors meeting,

for review of conformance to nominating requirements. Filing is deemed accomplished upon delivery of the petition to the Nominating Committee Chair.

(f) At the October meeting of the Board of Directors, a portion of the meeting shall be set aside to allow each candidate and equal opportunity to address the meeting, pursuant to rules and procedures to be established by the Election Committee.

(g) The Elections Committee shall, within two (2) days following the October meeting, prepare and mail a ballot to each member of the Association in good standing, together with a return envelope addressed to the Election Committee, ~~in care of a United States Post Office Box~~ MEA MS-126. All ballots must be returned by United States Mail or via interoffice mail and must be received within fifteen (15) days of mailing. All other ballots will be void. The Elections Committee shall cause a count to be made of all valid votes and certify the results thereof to the President prior to the next Board meeting. The candidate receiving the highest number of votes for each office shall then be declared elected thereto.

(h) In the event of a tie vote, a run-off election for that office shall be conducted at a general membership meeting. At that time, the members present shall elect the new officer from those candidates who received the tie vote.

(i) Newly elected Officers shall take office at the Board meeting following certification of election results and serve for two (2) years or until replaced.

(j) In the event an Office becomes vacant the vacancy shall be announced at the next regularly scheduled Board of Directors meeting and by U.S. Mail, sent within ten (10) working days of receipt of notification of vacancy by the Municipal Employees Association. The vacancy shall be filled at the next regularly scheduled Board of Directors meeting unless there is less than seven (7) working days notice, the vacancy shall be filled at the second regularly scheduled Board of Directors meeting following the announcement of vacancy.

(I) In the event the Presidency becomes vacant, the First Vice President shall become President immediately and shall serve out the unexpired Presidential term.

(II) In the event the First Vice Presidency becomes vacant, the office shall remain vacant until a new First Vice President is elected.

(III) In the event the Second Vice Presidency becomes vacant the President shall appoint a Member-at-Large of the Executive Committee to assume the duties until a new Second Vice President is elected.

(IV) In the event the Office of Treasurer becomes vacant, an audit shall be immediately performed and the First Vice President shall assume the duties of the Treasurer until a new Treasurer is elected.

(V) In the event the Office of Secretary becomes vacant, the President shall appoint a Member-at-Large of the Executive Committee to assume the duties of the Secretary until a new Secretary is elected.

(k) Any Officer may be temporary relieved of his/her duties for cause, at any meeting of the Board of Directors by a two-thirds (2/3) vote of the directors present. However, such action must be confirmed for permanent discharge by a two-thirds (2/3) vote of Directors present at the next meeting of the Board of Directors. If the action is ratified, the position shall be considered vacant and shall be provided for per (j) above.

Section 4. The President shall:

(a) Preside at membership meetings of the Association, the Board of Directors, and the Executive Committee.

(b) Appoint Chair of Standing Committees and other ad hoc committees authorized by the Board of Directors or the Executive Committee.

(c) Enforce the BY-LAWS and preserve order and decorum at all meetings.

(d) Declare an office vacant in case a Director fails to attend three (3) consecutive meetings of the Board of Directors without cause and in the case of a vacancy appoint new Directors.

(e) Authenticate, by signature when necessary, all the acts, orders, and proceedings of the Association Board of Directors, and the Executive Committee.

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(f) Votes only so as to break a tie vote.

(g) Perform such other duties assigned to him or her by the Board of Directors and/or the Executive Committee.

Section 4. The First Vice President assists the President, assumes the duties of the President during the temporary absence or incapacity of the President, assumes the Presidency if the Office becomes vacant before the end of the term, co-signs checks, assists the Treasurer as necessary and assumes the duties of the Treasurer if the Office becomes vacant before the end of the term, until the new Treasurer is elected.

Section 5. The Second Vice President shall be the advisor to the Chief Steward, shall appoint the Chief Steward until such time when the Stewards can elect a Chief from amongst themselves.

Section 6. The Treasurer shall be responsible for all assets and fiscal procedures. All payments shall be by check signed by the Treasurer and First Vice President and/or Second Vice President and/or Secretary in that order.

Section 7. The Secretary shall be responsible for all official documents of the Association, the Board of Directors and the Executive Committee.

## ARTICLE VI

### COMMITTEES

Section 1. The Standing Committees shall consist of the By-Laws, Finance, Grievance, Health & Welfare, Historian, Insurance/Benefits, Legislative/Political Action, Membership, Retirement, Social & Recreation Committees, and Stewards.

The Ad hoc Committees shall consist of the Contract Review the Competition Committee, the Committee on Union Issues, and others to be named as needed.

Section 2. The President shall appoint the Chair of all standing and special committees. All committee Chair appointments shall be ratified by the Board of Directors. Chairs shall continue to serve in that capacity until their successors have been appointed. The President may determine the maximum number of members for each committee.

Section 3. Other members of committees shall be from the membership-at-large, serving on a voluntary basis, and shall be selected by the committee Chair. The composition of and changes thereto of each committee shall be submitted by the Chair to the President in order that a record of such action is maintained and that the committee members receive proper recognition by the Association.

Section 4. The Chair of each committee shall prepare and submit appropriate minutes and reports for all committee meetings. The President shall receive the minutes and reports prepared by the various committee Chairs, which will be retained as part of the Association's records.

## ARTICLE VII

### CHAPTERS

Section 1. To assist in furthering the objectives of the San Diego Municipal Employees' Association and public employees in general, an Association Chapter may be formed by an autonomous public employee organization, provided that such Chapter is totally comprised of regular Association members. Chapter members shall pay regular dues and be entitled to all rights and privileges of other regular members.



Section 2. A petition, together with the proposed Constitution and By-Laws, shall be submitted by the interim of elected governing body of a proposed Chapter to the Association President for formal recognition action. The petition shall include: Name of the Chapter; present membership; effective date; names and addresses of Officers; official chapter mailing address; and a statement that such Chapter will operate under the policy and regulations of the parent organization, San Diego Municipal Employees' Association.

Section 3. Each request to establish an Association Chapter shall be reviewed by the Association By-Laws Committee with a report to the Executive Committee. If favorably considered, the request shall then be presented to the Board of Directors at its next scheduled meeting. A two-thirds (2/3) vote of the Directors present shall be required to approve a proposed Association Chapter. If approved, the effective date shall be as determined by the Board of directors.

Section 4. An Association Chapter may have its own Constitution and By-Laws, Officers, committees, etc. However, Association Chapter policies, procedures, and activities shall not be incompatible with San Diego Municipal Employees' Association Constitution, By-Laws, and Standing Rules, or the policies approved by the Association's Board of Directors. The constitution and By-Laws of the Association Chapter, including Amendments thereto, shall be subject to prior approval by the Association's Board of Directors before becoming effective.

Section 5. Neither shall an Association Chapter as a group nor any Officer, committee, or member thereof take any action on behalf of, or in the name of, the San Diego Municipal Employees' Association without prior approval of the Association President or its Board of Directors.

Section 6. Each Association Chapter shall periodically report to the Association President, Chapter activity progress, particularly in the area of employer-employee relations.

Section 7. An Association Chapter may be dissolved upon written petition to the Association Board of Directors. The request for dissolution shall include the reasons therefore and the effective date.

Section 8. An Association Chapter may be dissolved by the Board of Directors because of actions found to be detrimental to the Association or its purposes or the reputation or standing of membership. The dissolution action may be commenced by written notification to the Chapter from the Association Executive Committee or the Association Board of Directors. Such notification shall be served upon the Association Chapter at least ten (10) days before the meeting of the Board of Directors where such action is to be considered. Such Chapter may be temporarily suspended as an Association Chapter at any meeting of the Board of Directors where proper notice was given the Chapter. Such suspension shall require a two-thirds (2/3) vote of the Directors present. For such suspension to become a permanent removal of the Chapter, the Board of Directors action must be ratified at the next regularly scheduled Board of Directors' meeting by two-thirds (2/3) vote of the Directors present. If the action is not ratified, the Association Chapter that had been temporarily suspended resumes its status as an Association Chapter upon adjournment of the meeting of the Board of Directors.

## ARTICLE VIII

### STAFF

Section 1. The Association shall authorize and compensate all staff necessary to carry out the policies and programs of the Association.

Section 2. The President shall supervise the General Manager and, in the absence of a General Manager, the staff. The General Manager shall hire and supervise the activities of the staff. The Executive Committee shall direct the President in supervising of the General Manager.

## ARTICLE IX

### AMENDMENTS

Section 1. Except as otherwise provided in Article X, recommendations for changes to the By-Laws shall be made in writing to the By-Laws Committee for its review. The recommendation shall state the Article and Section to be amended, and the proposed change. Proposed amendments to the BY-LAWS shall be presented by the By-Laws Committee at a regularly

scheduled meeting of the Board of Directors. A copy of the amendment as originally proposed, and the recommendation of the By-Laws Committee, shall be sent to each member of the Board of Directors prior to the next meeting of the Committee. A proposed amendment may not be changed between these two meetings. The Board of Directors may adopt either the version originally proposed or the version recommended by the By-Laws Committee, if different.

Section 2. Except as otherwise provided in Article X, a two-thirds (2/3) vote of the Directors present is required to approve a proposed amendment to these BY-LAWS. Amendments to the BY-LAWS shall become effective immediately upon approval by the Board of Directors unless the Board designates a different effective date.

## ARTICLE X

### ASSOCIATION AFFILIATIONS

Section 1. The Association shall maintain membership in such associations or organizations as the Board of Directors deems in the best interests of the Association.

Section 2. In order to affiliate with a national or international union, or otherwise to affect the Association's independent status, a vote of two-thirds (2/3) of the eligible members shall be required. The question of affiliation shall be put to the membership upon a motion properly made, seconded and approved by the Board of Directors. Voting procedures for such affiliation vote shall be determined by the Elections Committee and adopted by the Board of Directors.

Section 3. The requirement of a two-third (2/3) vote of the members as described in the preceding section may not be modified or deleted by the Board of Directors, but may only be modified or deleted by a two-thirds (2/3) vote of eligible members.

## ARTICLE XI

### MISCELLANEOUS

Section 1. The fiscal year will begin on November 1, and end on October 31.

Section 2. An annual audit of the financial records shall be made following the close of the fiscal year by a Certified Public Accountant.

Section 3. Roberts Rules of Order, Revised, shall be the governing authority on all questions of parliamentary procedure not specifically provided for in these BY-LAWS.

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Revised: 1-14-1998

Page 7 Revised: 6-10-1998

Strike out/underline proposals: 11-19-1998; pages: 3 (c); 4 (b); 8 (a); 16 (g)

EXHIBIT NO. 32

Retirement Office  
City of San Diego  
MEMORANDUM

533-4660

Date: February 17, 1989  
To: Ed Ryan, Auditor and Comptroller  
From: Lawrence Grissom, Retirement Administrator  
Subject: PRESIDENTIAL LEAVE

*Larry*

50011 Fd  
This is to confirm a variety of items on this subject which we covered in and after our meeting on February 16, 1989. Presidential Leave is an approved leave and, as such, buy back is covered by Municipal Code Section 24.0313.

The cited code section provides that an employee may request to buy back service credit for approved leave. Such request must be made within sixty (60) days of return to service. The cost to buy back is broken down into two basic categories, as follows:

SAFETY

9133 9135 I. PERIODS OF ONE YEAR OR LESS. Employee must pay the amount of employee contribution, plus interest, only. The City pickup is a portion of the employee contribution paid on behalf of the employee and is, thus, a part of the employee contribution.

9163 9165 II. PERIODS IN EXCESS OF ONE YEAR. Employee must pay the employee contributions described above, and, in addition, must pay the employer contribution, plus interest.

Ron Newman, President of the POA, will be returning to active duty effective March 4, 1989. I have provided him with a buy back cost based on the above.

We agreed that employees on presidential leave would be allowed to pay their contributions on a pay-period-by-pay-period basis prospectively. The basis for the calculation of these contributions will be exactly as described above; i.e., employer contributions will not be charged for the first year, but will for any period over one year. In addition, since we will be receiving contributions each pay period, we will not charge interest. I have discussed this with Jack Katz, and he agrees that this procedure is legally correct.

What did we already do with Ron Newman & Larry Easton

MAR 3 1989

AUD-ERY-083-0114

Ed Ryan  
February 17, 1989  
Page Two

I have also informed POA of this. I understand that Harry Eastus will be replacing Ron Newman, effective March 4, 1989.

We also agreed that the above is applicable to other employee organization presidents. I will volunteer to handle communicating this to those individuals and organizations.

Please advise me as soon as possible of any special procedural steps necessary in the processing of the biweekly payments.

cc: Jan Beaton  
Jack Katz  
Bob Ferrier  
Ron Newman

EXHIBIT NO. 33



**Legislative History**  
**of the**

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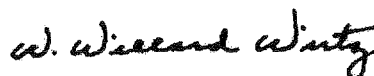
**Welfare and Pension Plans**  
**Disclosure Act of 1958,**  
**as amended by**  
**Public Law 87-420 of 1962**

### Foreword

The purpose of the Welfare and Pension Plans Disclosure Act, signed into law on August 28, 1958, is to provide for the registration, reporting, and disclosure to participants and beneficiaries of employee welfare and pension benefit plans of financial and other information relating to such plans. This Act was strengthened by the Welfare and Pension Plans Disclosure Act Amendments of 1962, which were signed into law by President Kennedy on March 20, 1962. Among other things, the amendments confer certain investigatory and enforcement powers upon the Secretary of Labor, authorize the Secretary of Labor to issue written interpretations on which plan administrators may rely, provide for bonding of certain persons who handle plan funds, and make Federal crimes of theft, embezzlement, false statements, kickbacks, and bribery with respect to plans subject to the Welfare and Pension Plans Disclosure Act.

Shortly after the passage of the 1962 Amendments, the Division of Labor Management Laws, Office of the Solicitor, undertook to collect and prepare for publication the materials included in this Legislative History. This project was conducted under the immediate supervision of Morton J. Marks and Ernest J. Corrado, who were assisted by Cornelius S. Donoghue, Jr., Arthur B. Patrizio, Sonya I. Livshin, Michael S. Gordon, George E. Rivers and Jean P. Edwards.

As a public service, I am pleased to make these compiled materials available for public use and I hope that they will be helpful to those persons who have occasion to use them.



W. WILLARD WIRTZ,  
*Secretary of Labor.*

## Section 2. Declaration of Findings and Policy

### Findings and Policy

Sec. 2. (a) *The Congress finds that the growth in size, scope, and numbers of employee welfare and pension benefit plans in recent years has been rapid and substantial; that the continued well-being and security of millions of employees and their dependents are directly affected by these plans; that they are affected with a national public interest; that they have become an important factor affecting the stability of employment and the successful development of industrial relations; that they have become an important factor in commerce because of the interstate character of their activities, and of the activities of their participants, and the employers, employee organizations, and other entities by which they are established or maintained; that owing to the lack of employee information concerning their operation, it is desirable in the interests of employees and their beneficiaries, and to provide for the general welfare and the free flow of commerce, that disclosure be made with respect to the operation and administration of such plans.*

(b) *It is hereby declared to be the policy of this Act to protect interstate commerce and the interests of participants in employee welfare and pension benefit plans and their beneficiaries, by requiring the disclosure and reporting to participants and beneficiaries of financial and other information with respect thereto.*

(Conference Report, No. 2656, House, p. 1-2, Aug. 15, 1958)

Mr. Humphrey. Mr. President, I take this opportunity to commend the favorable reporting from the Committee on Labor and Public Welfare of S. 2888, a bill to provide for registration, reporting, and disclosure of employee welfare and pension benefit plans.

There is no question that legislation in this field is needed, and there is no question in my

mind but what S. 2888 is a constructive and effective proposal.

Members of the Senate know that I have long been associated with legislation in this field. In previous Congresses I have introduced bills on the subject, the latest of such proposals being S. 1717 in the 84th Congress. On February 1, 1957, I released a statement with regard to the so-called labor racketeering investigation then getting under way.

I ask unanimous consent that the text of that statement be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUBERT HUMPHREY  
WITH REGARD TO INVESTIGATION OF LABOR  
RACKETEERING, FEBRUARY 1, 1957

→ As a friend of organized labor I wish to see the American labor movement clean, strong, and responsible. The few who abuse their power or are guilty of corruption, misuse of funds, or any other form of unethical conduct serve only to bring discredit upon the good name and reputation of organized labor. Free unions are a part of the American political, social, and economic structure. It has taken courage, steadfastness of purpose, sacrifice, and great leadership to build the American labor movement. There is no room within its organization for those who would violate their trust.

It is to the everlasting credit and honor of organized labor in America that it has, at all times, been a vigorous opponent of all forms of totalitarianism at home and abroad. It has made significant contributions to the welfare of the American people and to the strength and progress of our political and economic institutions. This honorable history and tradition must not be forgotten when charges and allegations of racketeering and corruption hit the headlines and attract public notice.

During the 82d Congress, as chairman of the Subcommittee on Labor and Labor-Management

EXHIBIT NO. 34

DATE	CASINO	AMOUNT	
8/5/2002	Bally's	\$196.20	
8/12/2002	Harrah's Stateline	\$202.48	
8/16/2002	Bally's	\$215.82	
8/19/2002	Bally's Paris Las Vegas	\$83.74	
8/30/2002	Bally's Paris Las Vegas	\$1.00	
8/30/2002	Les Element	\$79.15	
8/30/2002	Paris Lenotre Las Vegas	\$125.11	
8/30/2002	Bally's Paris Las Vegas	\$244.85	
8/30/2002	Paris Jewelry Kiosk LV	\$439.19	
9/12/2002	The Carson Nugget	\$113.27	
9/12/2002	GCA Casino	\$633.99	
10/1/2002	Rincon	\$63.47	
10/6/2002	GCA Casino	\$1,044.99	
10/8/2002	Lake Tahoe Mercantile	\$64.83	
10/14/2002	Embassy Lake Tahoe	\$256.89	
10/25/2002	Flamingo Hotel	\$88.29	
11/18/2002	GCA Casino	\$520.00	
12/5/2002	Circus Circus	\$200.00	
12/5/2002	Circus Circus	\$327.94	
12/26/2002	Pechanga Hotel	\$109.92	
12/26/2002	Pechanga Hotel	\$135.44	\$5,146.57

4/12/2003	Rincon Hotel	\$103.63	
5/3/2003	Casino Pauma	\$48.50	
7/18/2003	Swiss Chalet Lake Tahoe	\$91.30	
7/19/2003	GCA Casino	\$1,044.99	
1/20/2003	Best Western Lake Tahoe	\$63.80	
8/18/2003	Bally's Paris Las Vegas	\$136.25	
10/6/2003	GCA Casino	\$1,044.99	
10/6/2003	Water Wheel Stateline	\$35.30	
10/8/2003	Lake Tahoe Mercantile	\$64.83	
10/11/2003	Ontario Airport Lot	\$72.00	
10/14/2003	Embassy Lake Tahoe	\$256.89	\$2,962.48

2/27/2004	Pechanga	\$140.00	
3/6/2004	GCA Casino	\$317.99	
3/7/2004	Harrah's Stateline	\$150.00	
9/24/2004	Harrah's Stateline	\$1,562.99	
9/25/2004	Harrah's Casino Lake Tahoe	\$345.10	
9/26/2004	Harrah's Stateline Nevada	\$1,044.99	
12/2/2004	Palms Casino Las Vegas	\$107.31	
12/3/2004	Mccormick & Schmicks LV	\$97.61	
12/3/2004	Rio Hotel Las Vegas	\$130.14	
12/3/2004	Higuchi at the Rio Las Vegas	\$36.28	

12/4/2004 Ontario Airport Lot	\$36.00	\$3,968.41
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2/12/2005 Pechanga GCA	\$318.00	
2/12/2005 Pechanga GCA	\$318.00	
3/19/2005 GCA Casino Pauma Valley	\$520.00	
3/30/2005 GCA Pechanga	\$530.00	
4/22/2005 GCA Pechanga	\$530.00	
4/24/2005 GCA Pechanga	\$530.00	
5/29/2005 GCA Pechanga	\$530.00	
9/27/2005 Pechanga Temecula	\$33.48	\$3,309.48

DATE	SHOPPING SPREES	AMOUNT
1/14/2002	Stater Bros	\$124.93
1/22/2002	Barnes & Noble	\$118.84
2/11/2002	Old Navy	\$32.33
2/11/2002	Learning Express	\$40.54
2/15/2002	American Greetings	\$73.17
4/22/2002	Coldwater Creek	\$420.37
4/24/2002	Stater Bros	\$104.61
5/16/2002	Stater Bros	\$68.48
5/16/2002	Robinsons-May Junior	\$163.72
5/16/2002	Robinsons-May Pacesetter	\$139.02
5/16/2002	Robinsons-May Women's Tra	\$74.35
5/16/2002	Robinsons-May Men's Frag	\$56.03
6/3/2002	Linens 'n Things	\$106.80
6/3/2002	Robinsons-May Casual ent	\$231.91
6/3/2002	K-Mart	\$278.99
6/5/2002	Rite Aid	\$38.76
6/5/2005	Linens 'n Things	\$107.61
6/7/2002	Barnes & Noble	\$49.17
8/1/2002	Stater Bros	\$82.46
8/1/2002	Ralph's Temecula	\$66.77
8/1/2002	K-Mart	\$36.60
8/1/2002	Robinsons-May Young Mens	\$51.71
8/1/2002	Barnes & Noble	\$103.89
8/1/2002	Robinsons-May Mens Frag	\$128.22
8/1/2002	K-Mart	\$216.23
8/1/2002	Longs Drugs	\$37.85
8/1/2002	Apple Farm Gift Shop	\$156.43
8/1/2002	Spyglass	\$28.74
8/1/2002	Nordstrom	\$606.95
8/1/2002	Maidenform	\$38.45
8/2/2002	Nordstrom	\$314.31
8/5/2002	Linens 'n Things	\$192.83
9/5/2002	The Mad Scrapper	\$26.94
9/5/2002	The Mad Scrapper	\$108.17
9/5/2002	PC American Girl	\$240.84
9/10/2002	PC American Girl	\$152.11
9/16/2002	Nordstrom	\$61.31
9/16/2002	Lil Angels	\$113.13
9/19/2002	Levenger Catalog	\$56.25
9/19/2002	Levenger Catalog	\$185.50
9/23/2002	Nelson's Books & News	\$55.58
9/23/2002	Nordstrom	\$192.88
9/26/2002	Peggy's Hallmark	\$117.02
10/2/2002	PC American Girl	\$150.95
10/7/2002	Robinsons-May Bedroom	\$174.52
10/8/2002	Schilber's	\$619.56
1/21/2002	Longs Drugs	\$225.81
1/22/2002	Lowe's	\$267.65
'2002	Stater Bros	\$93.90
'2002	Nordstrom	\$368.46

11/21/2002 Stater Bros	\$50.45	
12/10/2002 FYE	\$52.75	
12/10/2002 Shade Zone	\$134.58	
12/10/2002 Wicks N Sticks	\$162.57	
12/10/2002 Tomkid	\$166.95	
12/10/2002 Old Navy	\$171.76	
12/10/2002 Sear's Roebuck	\$73.17	
12/10/2002 Kay Bee Toys	\$102.15	
12/10/2002 Kay Bee Toys	\$94.76	
12/11/2002 Old Navy	\$262.69	
12/11/2002 Spencer Gifts	\$71.04	
12/12/2002 Levenger Catalog	\$307.85	
12/24/2002 Brookstone	\$16.16	
12/24/2002 American Greetings	\$33.16	
12/24/2002 Robinsons-May Yaw Knits	\$41.35	
12/24/2002 Juliano Delicate	\$45.80	
12/24/2002 Steinmart	\$46.30	
12/24/2002 Robinsons-May Gift Cards	\$54.43	
12/24/2002 Steinmart	\$78.56	
12/24/2002 IE Bikes Murietta	\$168.95	
12/24/2002 Kay Bee Toys	\$245.55	
12/24/2002 Brookstone	\$307.09	
12/24/2002 Lowe's	\$457.93	
12/26/2002 Longs Drugs	\$71.89	
12/30/2002 Shade Zone	\$73.22	\$10,792.76



1/6/2003 Things Remembered	\$59.21
1/6/2003 Charm Jungle	\$127.09
1/13/2003 William Sonoma	\$136.15
1/17/2003 Waldenbooks	\$26.93
1/17/2003 The Home Depot	\$61.95
1/20/2003 Schilber's	\$520.44
1/21/2003 Brightroom	\$74.57
2/3/2003 Edna Valley Vineyards	\$160.56
2/10/2003 American Greetings	\$44.02
2/10/2003 Charm Jungle	\$73.26
2/13/2003 Nordstrom	\$142.23
2/13/2003 Nordstrom	\$32.33
2/13/2003 Nordstrom	\$113.14
2/14/2003 Lavender Gift Shop	\$63.42
3/21/2003 Kohl's	\$172.17
3/26/2003 Nordstrom	\$182.10
3/26/2003 Nordstrom	\$284.46
3/26/2003 Nordstrom	\$105.60
3/31/2003 Target	\$45.71
3/31/2003 Hanna Anderson	\$271.32
4/1/2003 Hanna Anderson	\$29.10
4/6/2003 Kohl's	\$118.10
4/11/2003 Charm Jungle	\$120.64
4/12/2003 Charlotte Russe	\$53.85
4/21/2003 Hanna Anderson	\$46.55
4/23/2003 Hanna Anderson	\$116.37
4/27/2003 Kohl's	\$363.25
5/6/2003 Hanna Anderson	\$50.43
5/19/2003 Great News Discount Cookw	\$25.70
5/31/2003 Peggy's Hallmark	\$115.91
6/1/2003 Kohl's	\$350.21
6/1/2003 Kohl's	\$89.39
6/1/2003 Kohl's	\$203.90
6/3/2003 Peggy's Hallmark	\$59.15
6/8/2003 Kohl's	\$107.48
6/14/2003 Sear's Roebuck	\$484.86
6/25/2003 Kohl's	\$34.45
6/27/2003 Kohl's	\$115.20
6/29/2003 Peggy's Hallmark	\$74.69
7/6/2003 Kohl's	\$86.22
7/31/2003 Kohl's	\$335.78
7/31/2003 Modern Image	\$110.04
8/8/2003 Kohl's	\$230.09
8/17/2003 Linens n Things	\$90.89
8/24/2003 Wal Mart	\$128.74
9/11/2003 Nordstrom	\$86.20
9/11/2003 Nordstrom	\$82.42
9/11/2003 Macy's West	\$172.37
9/20/2003 Fat Apples	\$38.07
9/20/2003 Harry & David	\$75.45
9/20/2003 Union Square	\$10.00
9/25/2003 Macy's West	\$113.14

9/28/2003 Macy's West	\$48.47	
10/18/2003 Kohl's	\$91.20	
11/8/2003 Men's Warehouse	\$409.44	
11/8/2003 American Greetings	\$16.74	
11/8/2003 Macy's West	\$59.26	
11/8/2003 Macy's West	\$181.02	
11/15/2003 Exspbfee	\$59.00	
11/16/2003 Kohl's	\$256.34	
11/16/2003 Kohl's	\$49.49	
11/21/2003 Hallmark	\$54.54	
11/21/2003 Sear's Roebuck	\$361.39	
11/22/2003 Macy's West	\$50.38	
11/22/2003 Kohl's	\$172.54	
12/10/2003 Hammacher Schlemmer	\$270.90	
12/13/2003 Kohl's	\$418.25	
12/14/2003 Kohl's	\$434.14	
12/15/2003 Levenger Catalog	\$796.30	
12/19/2003 Hammacher Schlemmer	\$14.95	
12/24/2003 Armstrong	\$150.81	
12/24/2003 Men's Warehouse	\$98.16	
12/26/2003 Kuleto's	\$69.16	
12/26/2003 Kuleto's	\$53.24	
12/27/2003 Macy's West	\$401.55	
12/28/2003 WH Smith	\$57.41	
12/30/2003 Big River Trading Co.	\$135.56	\$11,525.54

1/8/2004 Visage Boutique	\$25.98
2/1/2004 Target	\$277.90
2/2/2004 Northland Posters	\$727.80
2/5/2004 Northland Posters	\$5.95
2/10/2004 Northland Posters	\$483.60
2/28/2004 Kohl's	\$180.40
2/29/2004 K-Mart	\$117.44
2/29/2004 Kohl's	\$158.93
3/1/2004 Kohl's	\$53.91
3/1/2004 Kohl's	\$21.45
3/6/2004 The Rockport Company	\$161.25
3/6/2004 Active Mobility	\$20.00
3/28/2004 Kohl's	\$228.28
3/28/2004 Kohl's	\$82.92
4/5/2004 Coldwater Creek	\$412.63
4/6/2004 Kohl's	\$142.26
4/8/2004 Sport Chalet	\$145.44
4/17/2004 Depalo & Sons Inc.	\$36.92
4/17/2004 Apple Farm Gift Shop	\$138.95
4/17/2004 PB True Value	\$64.33
4/20/2004 Express	\$99.00
4/26/2004 Coldwater Creek	\$104.16
4/27/2004 Harold Stevens Jewelers	\$86.20
4/30/2004 Charm Me Tucson	\$33.35
4/30/2004 Charm Me Tucson	\$26.90
5/8/2004 Kohl's	\$466.29
5/8/2004 Kohl's	\$59.21
5/12/2004 Kohl's	\$163.73
5/31/2004 Robinsonmay	\$124.99
6/8/2004 Saks Fifth Avenue	\$210.54
6/11/2004 Breast Cancer 3 Day	\$250.00
6/13/2004 Payless Shoe Source	\$24.74
8/6/2004 Adelphia	\$300.20
8/7/2004 Target	\$54.30
9/4/2004 McCormack & Schmicks	\$35.02
9/11/2004 Sharp Mary Birch Gift Shop	\$65.06
9/22/2004 Starbucks	\$58.65
9/23/2004 Thomson West	\$570.00
9/23/2004 Thomson West	\$44.18
11/19/2004 Macy's West	\$82.69
11/27/2004 Wal Mart	\$287.82
12/1/2004 Caterina's Ontario	\$64.10
12/3/2004 McCormack & Schmicks	\$97.61
12/11/2004 Sporty's Catalogs	\$153.85
12/12/2004 Kohl's	\$307.75
12/12/2004 Kohl's	\$228.40
12/13/2004 Nordstrom	\$200.00
12/13/2004 Wolfersmans Inc	\$113.85
12/14/2004 Wolfersmans Inc	\$187.80
12/14/2004 Wolfersmans Inc	\$58.95
12/15/2004 Vivaterra LLC	\$165.88
12/22/2004 Levenger Catalog	\$113.75

12/28/2004 Casual Corner	\$28.75	
12/28/2004 Macy's West	\$172.72	
12/30/2004 Out of This World	\$60.85	\$8,587.63

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DATE	STORES	AMOUNT
5/27/2005	Stater Bros	\$26.63
5/28/2005	Vons	\$64.22
5/28/2005	Vons	\$176.62
5/29/2005	Stater Bros	\$149.76
5/30/2005	Macy's West	\$31.65
5/30/2005	Macy's West	\$126.07
5/30/2005	Macy's West	\$193.93
5/30/2005	Macy's West	\$455.99
6/2/2005	Best Buy	\$200.00
6/2/2005	Home Depot	\$200.00
6/5/2005	Stater Bros	\$211.44
6/7/2005	Levenger	\$241.00
6/9/2005	Kohl's	\$216.19
7/6/2005	Dogma Catma	\$161.63
7/8/2005	Tom Kid	\$29.08
7/8/2005	KB Toys	\$49.50
7/8/2005	Stater Bros	\$33.77
7/9/2005	Target	\$265.08
7/9/2005	Target	\$117.64
7/9/2005	Stater Bros	\$64.90
7/10/2005	Vons	\$86.81
7/13/2005	Backyard Bush	\$89.50
7/17/2005	Stater Bros	\$191.34
7/24/2005	Stater Bros	\$198.65
7/29/2005	Vons	\$228.14
8/14/2005	Stater Bros	\$153.97
8/15/2005	Macy's West	\$189.37
8/18/2005	Vons	\$75.26
8/18/2005	Harnold Stevens Jewelers	\$68.96
8/20/2005	Vons	\$145.00
8/21/2005	Target	\$215.88
8/21/2005	Target	\$38.45
8/21/2005	Stater Bros	\$212.84
8/22/2005	Smart	\$90.14
8/24/2005	Nordstroms	\$274.33
8/24/2005	Macy's West	\$196.08
8/27/2005	Steinmart	\$74.53
8/28/2005	Macy's West	\$66.99
8/28/2005	Stater Bros	\$42.12
8/30/2005	Vons	\$212.97
9/12/2005	Sunterra Payments	\$838.23
9/16/2005	Orbitz LLC	\$161.12
9/17/2005	Kohl's	\$107.47
9/18/2005	Disney World	\$36.64
9/18/2005	Sunscape Eyewear	\$26.93
9/19/2005	Disney Stroller	\$55.00
9/19/2005	Disney Emporium	\$72.73
9/19/2005	Disney Emporium	\$32.30
9/19/2005	Disney Connection	\$62.48
9/19/2005	Disney Tinkerbell	\$58.72

9/20/2005 Granada Wings	\$22.95
9/24/2005 Stater Bros	\$132.72
9/24/2005 Stater Bros	\$42.91
10/1/2005 Stater Bros	\$56.03
10/2/2005 Stater Bros	\$172.46
10/24/2005 Nordstroms	\$144.39
10/24/2005 Nordstroms	\$188.56
10/26/2005 Nordstroms	\$393.29
10/29/2005 Stater Bros	\$230.96
10/29/2005 RiteAid	\$108.56
11/5/2005 Stater Bros	\$158.36
11/12/2005 Walgreen	\$49.71
11/13/2005 Murphy Canyon Market	\$14.91
11/13/2005 Kohl's	\$119.13
11/14/2005 Stater Bros	\$120.74
11/19/2005 Home Depot	\$108.50
11/19/2005 Blockbusters	\$33.60
11/23/2005 Stater Bros	\$143.38
12/2/2005 Vons	\$98.64
12/3/2005 Stater Bros	\$166.73
12/4/2005 Kohl's	\$189.11
12/4/2005 Stater Bros	\$56.48
12/8/2005 Vons	\$90.00
12/9/2005 Stater Bros	\$35.11
12/10/2005 William Sonoma	\$154.27
12/10/2005 Vons	\$149.59
12/10/2005 Micheal's	\$101.77
12/10/2005 Kohl's	\$277.41
12/10/2005 Harry&David	\$231.52
12/11/2005 Kohl's	\$277.41
12/11/2005 Stater Bros	\$382.07
12/13/2005 William Sonoma	\$53.28
12/14/2005 Labor Heritage	\$120.00
12/15/2005 Stater Bros	\$63.82
12/16/2005 West Dallas	\$157.75
12/16/2005 Dan's Feed & Seed	\$91.05
12/16/2005 RiteAid	\$103.17
12/17/2005 Kohl's	\$348.44
12/19/2005 Vons	\$64.31
12/20/2005 William Sonoma	\$26.64
12/20/2005 Men's Wearhouse	\$284.02
12/21/2005 Steinmart	\$217.54
12/23/2005 Kohl's	\$435.23
12/23/2005 Steinmart	\$200.08
12/23/2005 Mary's West	\$109.80
12/23/2005 Mary's West	\$171.39
12/23/2005 Mary's West	\$452.53
12/24/2005 RiteAid	\$201.22

**\$14,869.59**

DATE	HOTELS and RESTAURANTS	AMOUNT
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1/11/2002	Westgate Hotel	43.58
1/11/2002	Rusty Duck	106.66
1/11/2002	Island Palms Hotel & Marina	150
1/14/2002	Panda Inn	30.63
1/17/2002	Hilton Sacramento Arden West	173.19
1/18/2002	Johnny Carino's	66.53
1/18/2002	Island Palms Hotel & Marina	76.52
1/21/2002	Magic Lamp Inn	137.18
1/21/2002	Elephant & Castle	26.49
1/21/2002	SD Bay Holiday Inn	354.36
1/24/2002	Rainwater's on Kettner	595
2/20/2002	Mimi's Café	49.72
2/22/2002	Johnny Carino's	75.12
2/22/2002	Motel 6	185.73
2/25/2002	Motel 6	45.35
2/25/2002	BBQ Pit	146.85
4/24/2002	Fortune Cookie	38.04
4/26/2002	Claim Jumper	50
4/26/2002	Claim Jumper	106.87
5/2/2002	Bristol Court Hotel	86.76
5/9/2002	Bristol Court Hotel	30.71
5/9/2002	Anthony's Fish Grotto	81.49
5/9/2002	Bristol Court Hotel	430.23
5/13/2002	Doubletree Club Hotel	61.23
5/13/2002	Dave & Busters	175
5/13/2002	Dave & Busters	60
5/16/2002	Outback Temecula	74.74
5/17/2002	Fairfield Inn	75.9
5/20/2002	Fairfield Inn	227.7
5/20/2002	Fairfield Inn	227.7
6/7/2002	Westgate Hotel	35.03
6/7/2002	Johnny Carino's	25.31
7/5/2002	Courtyard by Marriot	232.33
8/1/2002	Anthony's Fish Grotto	75
8/1/2002	Peony Murrieta	32.26
8/1/2002	Hash House a gogo	62.04
8/1/2002	Westgate Hotel	25.15
8/1/2002	Mimi's Café	\$37.85
8/1/2002	Westgate Hotel	\$31.01
8/1/2002	Texas Lil's Mesquite Grill	\$84.35
8/1/2002	Panda Country	\$40.56
8/1/2002	Mimi's Café	\$125.78
8/1/2002	Westgate Hotel	\$31.34
8/1/2002	Anthony's Fish Grotto	\$65.27
8/1/2002	Bully's East	\$65.73
8/1/2002	Chart Houe	\$142.59
8/1/2002	US Grant	\$60.20
8/1/2002	Steamers Pismo Beach	\$209.37
8/1/2002	F McClintock's	\$33.95
8/1/2002	F McClintock's	\$446.46

8/1/2002 Rosa's Italian Restaurant	\$575.50	
8/1/2002 The Cliffs Resort	\$12.90	
8/1/2002 The Cliffs Resort	\$32.06	
8/1/2002 The Cliffs Resort	\$44.01	
8/1/2002 The Cliffs Resort	\$52.18	
8/1/2002 The Cliffs Resort	\$102.31	
8/1/2002 The Cliffs Resort	\$123.86	
8/1/2002 The Cliffs Resort	\$188.82	
8/1/2002 The Cliffs Resort	\$190.35	
8/1/2002 Buca Di Bepo	\$522.84	
8/1/2002 Marriot Brown Deer	\$232.33	
8/13/2002 Riva Grill Lake Tahoe	\$88.94	
9/6/2002 Harris Ranch	\$54.39	
9/6/2002 Harris Ranch	\$67.72	
9/16/2002 Embassy Lake Tahoe	\$134.77	
9/20/2002 The Dead Fish Crockett	\$144.29	
9/23/2002 Black Oak Restaurant	\$61.00	
9/23/2002 John Muir Inn	\$175.62	
9/24/2002 Iron Wok	\$44.95	
10/4/2002 Outback Temecula	\$41.00	
10/4/2002 Fish Market	\$182.03	
10/11/2002 Bristol Court Hotel	\$2.66	
10/11/2002 Bristol Court Hotel	\$19.03	
10/11/2002 Franceso's	\$51.91	
10/11/2002 Bristol Court Hotel	\$125.40	
10/11/2002 Bristol Court Hotel	\$147.50	
10/11/2002 Lafayette Park Hotel	\$288.80	
10/15/2002 Mimi's Café	\$52.51	
10/17/2002 Bristol Court Hotel	\$163.85	
10/17/2002 Bristol Court Hotel	\$166.49	
10/17/2002 Westgate Hotel	\$236.36	
10/22/2002 Hob Nob Hill	\$48.08	
11/15/2002 Rosa's Italian Restaurant	\$18.36	
11/18/2002 Big Jim's Old South Bar	\$8.80	
11/20/2002 Westgate Hotel	\$84.58	
11/21/2002 Westgate Hotel	\$20.18	
11/21/2002 Fish Market	\$39.26	
11/21/2002 Red Robin	\$100.00	
11/22/2002 Downtown She	\$12.11	
11/25/2002 Hilton Hotels	\$152.90	
12/12/2002 PF Changs	\$65.84	
12/17/2002 Claim Jumper	\$44.78	
12/17/2002 Claim Jumper	\$375.00	
12/19/2002 Motel 6	\$47.51	\$11,194.64



1/7/2003 Downtown Johnny Brown's	\$40.77
1/9/2003 Claim Jumper	\$27.85
1/10/2003 Ruth Chris Steakhouse	\$49.95
1/16/2003 Madonna Inn	\$272.80
1/20/2003 Olive Garden	\$27.41
1/27/2003 Macaroni Grill	\$50.18
1/28/2003 Downtown Fish Joint	\$18.84
1/31/2003 Olive Garden	\$37.85
1/31/2003 Morton's of Chicago	\$199.90
2/3/2003 F McClintock's	\$27.00
2/3/2003 F McClintock's	\$132.56
2/3/2003 Madonna Inn	\$248.43
2/5/2003 Coco's	\$28.32
2/5/2003 Casa De Pico	\$103.50
2/7/2003 TGI Fridays	\$31.12
2/7/2003 Westgate Hotel	\$120.58
2/10/2003 Silvery Steak Café	\$26.72
2/10/2003 PF Changs	\$53.25
2/12/2003 Sheraton Hotels	\$127.08
2/16/2003 Westgate Hotel	\$45.44
2/17/2003 Mimi's Café	\$29.70
2/18/2003 Hob Nob Hill	\$34.45
2/18/2003 Sammy's Downtown	\$78.15
3/8/2003 Art's Bar & Grill	\$58.40
3/9/2003 Bristol Court Hotel	\$108.97
3/21/2003 Mimi's Café	\$34.03
3/21/2003 Richie's Real American Diner	\$49.92
3/23/2003 Rusty Duck	\$232.99
3/25/2003 Hilton Hotels	\$148.98
3/27/2003 Olive Garden	\$35.82
3/28/2003 Claim Jumper	\$70.29
3/29/2003 Fish Market	\$114.40
4/8/2003 Assaggio	\$23.53
4/11/2003 Westgate Hotel	\$25.38
4/15/2003 Chiquitas	\$40.10
4/15/2003 Imperial Wok	\$82.55
4/26/2003 Claim Jumper	\$94.49
4/28/2003 China Camp	\$34.25
4/30/2003 Black Angus	\$45.10
4/30/2003 Westgate Hotel	\$31.56
5/2/2003 Chiquitas	\$8.87
5/8/2003 Chiquitas	\$23.23
5/9/2003 BC Café	\$40.81
5/10/2003 Chili's Temecula	\$48.80
5/13/2003 Anthony's Fish Grotto	\$48.94
5/17/2003 Pick Up Stix	\$25.59
5/18/2003 The Fishery	\$130.07
5/19/2003 Einstein Bagel	\$17.26
5/20/2003 Sheraton Hotels	\$124.61
5/20/2003 Rosa's Italian Restaurant	\$21.70
5/25/2003 John's Genova Deli	\$57.60
5/26/2003 The Embers Pinole	\$28.87

5/26/2003 Lafayette Park Hotel	\$336.62
5/28/2003 Anthony's Fish Grotto	\$99.70
6/11/2003 Westgate Hotel	\$53.13
6/11/2003 Hob Nob Hill	\$32.53
6/12/2003 Chiquitas	\$28.92
6/13/2003 Claim Jumper	\$141.85
6/18/2003 Westgate Hotel	\$250.67
6/23/2003 Anthony's Fish Grotto	\$51.58
6/24/2003 Bristol Court Hotel	\$118.50
6/25/2003 Milanos	\$56.11
6/27/2003 Filippi's Pizza	\$32.85
6/30/2003 On The Border	\$94.74
7/5/2003 Red Lobster	\$90.46
7/25/2003 Hob Nob Hill	\$39.35
7/28/2003 Westgate Hotel	\$32.45
7/29/2003 Little America Westgate	\$20.37
7/29/2003 Dobsons	\$61.38
7/30/2003 Mission Hills Café	\$44.10
7/30/2003 Valley Tavern	\$24.20
7/31/2003 Little America Westgate	\$72.15
8/1/2003 Morton's of Chicago	\$332.67
8/7/2003 Bristol Court Hotel	\$24.61
8/14/2003 Morton's of Chicago	\$312.28
8/15/2003 Yard House	\$125.29
8/15/2003 Bristol Court Hotel	\$149.50
8/15/2003 Bristol Court Hotel	\$6.28
8/23/2003 Hadley's Cabazon Banning	\$67.62
8/24/2003 Richie's Real American Diner	\$32.70
8/24/2003 Richie's Real American Diner	\$12.34
8/24/2003 Little America Westgate	\$31.85
9/10/2003 Little America Westgate	\$42.10
9/16/2003 Chili's Grill	\$69.90
9/18/2003 Rusty Duck	\$35.94
9/19/2003 Max's Opera Café	\$204.95
9/21/2003 Hilton Hotels	\$360.48
9/22/2003 Chiquitas	\$25.00
9/25/2003 US Grant	\$8.26
9/25/2003 US Grant	\$359.58
9/26/2003 Claim Jumper	\$119.68
10/1/2003 Hob Nob Hill	\$35.31
10/8/2003 Chevy's	\$35.72
10/11/2003 On The Border	\$80.03
10/15/2003 Little America Westgate	\$40.07
10/16/2003 Dine-In Delivery	\$27.78
10/18/2003 Chevy's Camp	\$46.57
11/8/2003 Morton's of Chicago	\$500.00
11/13/2003 Yard House	\$205.70
11/14/2003 Bristol Court Hotel	\$144.03
11/14/2003 Bristol Court Hotel	\$6.91
11/18/2003 Studio Diner	\$53.20
12/1/2003 Studio Diner	\$75.64
12/13/2003 Studio Diner	\$80.00

12/16/2003 Olive Garden	\$42.74	
12/16/2003 Olive Garden	\$50.00	
12/26/2003 Hotel Del Coronado	\$456.21	
12/28/2003 Westin Hotels St Francis	\$640.07	
12/29/2003 Albion River Inn	\$318.31	
12/29/2003 Golden Goose	\$61.13	
12/29/2003 Mendocino Jams & Preserves	\$84.70	
12/30/2003 Indulgence Mendocino	\$185.49	
12/31/2003 Panda Inn	\$30.85	\$10,822.11

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1/9/2004 The Biltmore	\$81.84
1/21/2004 Anthony's Fish Grotto	\$40.11
1/22/2004 Hilton Hotels	\$66.94
1/22/2004 Elephant Bar	\$140.60
1/23/2004 Hilton Hotels	\$117.69
1/26/2004 PF Changs	\$60.75
1/27/2004 Chiquitas	\$26.17
1/27/2004 Olive Garden	\$41.77
2/11/2004 IHOP	\$24.22
2/13/2004 Macaroni Grill	\$53.42
3/19/2004 Elephant Bar	\$42.72
3/20/2004 Rusty Duck	\$104.84
3/21/2004 Hilton Hotels	\$312.80
3/23/2004 Studio Diner	\$131.90
3/25/2004 Fish House Vera Cruz	\$40.75
4/8/2004 Dave & Busters	\$199.61
4/12/2004 Humphrey's Half Moon	\$95.74
4/13/2004 Humphrey's Half Moon	\$19.02
4/15/2004 Richie's Real American Diner	\$25.76
4/16/2004 The Cliffs Resort	\$50.00
4/16/2004 The Olive Garden	\$19.85
4/16/2004 Rosa's Italian Restaurant	\$160.13
4/17/2004 F McClintock's	\$25.50
4/17/2004 Bonny Doon Winery	\$55.47
4/17/2004 Mastantuono Winery	\$43.87
4/17/2004 Opolo Wines	\$49.34
4/20/2004 Westgate Hotel	\$67.56
4/28/2004 Yard House	\$116.15
4/30/2004 Westin Hotels Retail Tucs	\$81.10
4/30/2004 Westin Hotels Retail Tucs	\$32.95
4/30/2004 Westin Hotels Retail Tucs	\$39.71
5/2/2004 Cracker Barrel Yuma	\$120.45
5/4/2004 Panda Inn	\$123.98
5/6/2004 Westgate Hotel	\$51.91
5/12/2004 Westgate Hotel	\$35.17
5/18/2004 6th Ave Bistro	\$63.65
5/19/2004 Hilton Hotels	\$3,338.65
5/19/2004 Hilton Hotels	\$399.03
5/19/2004 Hilton Hotels	<b>\$3.67</b>
5/21/2004 Albion River Inn	\$145.86
5/22/2004 Albion River Inn	\$500.00
5/30/2004 Il Fornaio Walnut Creek	\$79.87
6/2/2004 US Grant	\$3.88
6/2/2004 US Grant	\$22.00
6/7/2004 Catamaran Hotel	\$162.60
6/8/2004 Blue Point Coastal	\$269.52
6/15/2004 US Grant	\$1.52
6/15/2004 US Grant	\$34.67
6/22/2004 Yard House	\$118.23
7/21/2004 Wyndham Hotel	\$135.00
7/22/2004 Wyndham Hotel	\$28.60
7/24/2004 Hyatt Hotels	\$175.91

8/11/2004 Applebee's Temecula	\$78.84	
8/21/2004 Chiquitas	\$170.70	
8/27/2004 Olive Garden	\$39.94	
9/22/2004 Anthony's Fish Grotto	\$238.70	
9/22/2004 Westgate Hotel	\$121.40	
9/23/2004 Hamton Inn & Suites Temecula	\$150.72	
9/24/2004 Chevys	\$30.93	
11/22/2004 Yard House	\$147.57	
11/15/2004 Hyatt Hotels	\$199.42	
11/18/2004 Coco's	\$31.36	
11/19/2004 Applebee's Temecula	\$88.73	
11/20/2004 Island's Restaurant	\$61.13	
11/23/2004 Westgate Hotel	\$32.83	
12/3/2004 Higuchi	\$36.28	
12/7/2004 Westgate Hotel	\$28.60	
12/7/2004 Tierrasanta Mexican Restaurant	\$18.95	
12/9/2004 US Grant	\$8.08	
12/9/2004 US Grant	\$301.26	
12/14/2004 Westgate Hotel	\$152.42	
12/24/2004 BC Café	\$49.32	
12/24/2004 Claros Italian Market	\$44.99	
12/27/2004 Francisco's	\$79.77	
12/28/2004 Kuleto's	\$84.39	
12/28/2004 Yank Sing	\$136.52	
12/28/2004 Yank Sing	\$43.35	
12/28/2004 Westin Hotels St Francis	\$753.55	
12/30/2004 Golden Goose	\$45.05	
12/30/2004 Mendocino Hotel	\$42.37	\$11,399.62

Date	Resturants/Hotels	Amount
1/1/2005	Albion River Inn	\$387.62
1/1/2005	Albion River Inn	\$98.62
1/3/2005	Starbucks	\$51.95
1/2/2005	Albion River Inn	\$356.81
1/4/2005	Olive Garden	\$50.05
1/6/2005	Yard House	\$210.14
1/6/2005	Bristel Hotel	\$160.55
1/10/2005	Studio Diner	\$41.40
1/11/2005	Westgate	\$105.13
1/12/2005	Starbucks	\$252.30
1/13/2005	Sheraton Hotel	\$85.62
1/15/2005	Olive Garden	\$32.75
1/19/2005	Antonio's Resturant	\$71.25
2/25/2005	Olive Garden	\$19.90
2/25/2005	Hilton	\$190.59
2/25/2005	Rosa's Café	\$125.55
2/26/2005	Hant Cellars	\$77.17
2/26/2005	Madonna Inn	\$49.61
2/27/2005	Avila Village Inn	\$421.80
3/9/2005	Olive Garden	\$38.80
3/15/2005	Cheesecake	\$74.38
3/18/2005	Hotel.com	\$125.50
4/3/2005	Island Resturant	\$64.79
4/19/2005	Studio Diner	\$32.85
4/20/2005	Westgate	\$54.22
4/21/2005	Chiquitas Mexican	\$40.18
4/21/2005	Peet's Coffee & Tea	\$59.35
4/21/2005	Peet's Coffee & Tea	\$33.95
4/21/2005	Holiday Inn	\$120.45
4/25/2005	California Café Bar/Grill	\$67.11
4/27/2005	Macaroni Grill	\$71.41
5/2/2005	Pat&Oscars	\$674.41
5/6/2005	Chiquitas Mexican	\$28.18
5/8/2005	California Café Bar/Grill	\$165.44
5/8/2205	California Café Bar/Grill	\$15.00
5/9/2205	Peppolins Pizza	\$153.85
5/10/2205	Westgate	\$6.20
5/10/2005	Westgate	\$22.00
5/20/2005	Olive Garden	\$38.72
5/21/2005	Filippi's Pizza	\$24.08
5/21/2005	Filippi's Pizza	\$75.00
5/25/2005	Westgate	\$77.80
6/1/2005	Yard House	\$80.60
6/2/2005	Yard House	\$100.00
6/2/2005	Claim Jumper	\$52.95
6/8/2005	Westgate	\$94.80
7/6/2005	Ortiges A Mexican Bistro	\$116.33
7/8/2005	The Chocolate Moose	\$33.77
7/10/2005	Dave&Busters	\$198.23
7/10/2005	Dave&Busters	\$9.29

7/10/2005 Dave&Busters	\$72.00
7/12/2005 Rosa's Café	\$15.02
7/15/2005 The Catch	\$173.95
7/15/2005 Hilton Café Oasis	\$32.75
7/17/2005 Hilton	\$22.00
7/18/2005 Hilton	\$170.02
7/19/2005 Olive Garden	\$34.63
7/25/2005 6th Ave. Bistro	\$25.69
7/27/2005 Fish Market	\$109.42
7/28/2005 Claim Jumper	\$52.95
7/28/2005 Claim Jumper	\$54.98
7/28/2005 Hilton	\$45.97
7/28/2005 Hilton	\$76.18
8/11/2005 Claim Jumper	\$59.95
8/11/2005 Original Redhouse Grill	\$31.06
8/12/2005 Round Table Pizza	\$32.59
8/12/2005 Outback	\$110.45
8/15/2005 Farnhouse	\$33.45
8/16/2005 6th Ave. Bistro	\$44.09
8/18/2005 Studio Diner	\$38.16
8/20/2005 Holiday Inn	\$202.80
8/23/2005 Olive Garden	\$35.63
8/25/2005 Starbucks	\$12.00
8/25/2005 Cheese Shop	\$100.51
8/25/2005 Cheese Shop	\$100.51
9/18/2005 Tiffey's Family	\$41.48
9/18/2005 Tortilla Jo's	\$148.17
9/20/2005 Richies Real American Diner	\$62.01
9/23/2005 La Quinta	\$88.51
10/4/2005 Starbucks	\$18.45
10/4/2005 6th Ave. Bistro	\$28.92
10/6/2005 Olive Garden	\$37.79
10/7/2005 McDonald's	\$4.40
10/8/2005 Albion River Inn	\$356.81
10/19/2005 6th Ave. Bistro	\$28.27
10/20/2005 Chiquitas Mexican	\$22.84
10/22/2005 Embrassy Suites	\$465.23
12/13/2005 Claim Jumper	\$62.84
12/20/2005 6th Ave. Bistro	\$23.80
12/24/2005 BC Café Rancho	\$47.32
12/24/2005 Franciscos	\$77.50
12/27/2005 Franciscos	\$41.57
12/28/2005 Yangsing	\$136.52
12/28/2005 Yangsing	\$43.35
12/28/2005 kuleto's	\$84.39
12/29/2005 westin Hotels	\$753.55
12/30/2005 Out of this world	\$60.85
12/30/2005 Golden Goose	\$45.05
12/30/2005 Mendocino Hotel	\$42.37

**\$9,947.20**

DATE	VACATION	AMOUNT	
11/5/2002	Sands Kids Koloa	\$28.13	
11/5/2002	Whaler's General Store	\$46.83	
11/14/2002	Whaler's General Store	\$16.65	
11/14/2002	Whaler's General Store	\$137.81	
11/14/2002	Whaler's General Store	\$295.75	
11/15/2002	DFS Galleria (Hawaii)	\$23.15	
11/15/2002	Hilo Hatties	\$349.53	\$897.85

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8/23/2003	Marriott Palm Desert	\$105.42	
8/23/2003	Marriott Palm Desert	\$105.42	\$210.84

11/5/2004	Boutique Spa Hawaii	\$192.71	
11/5/2004	Pleasant Hawaiiin Holiday	\$141.66	
11/6/2004	Radisson Hotels Hawaii	\$205.69	
11/8/2004	Blue Dolphin Charters Hawaii	\$33.33	
11/13/2004	Longs Drug Stores Hawaii	\$62.62	
11/14/2004	Poipu Beach Broiler	\$64.25	
11/15/2004	Hyatt Hotels Kauai Spa Hawaii	\$199.42	
11/16/2004	Island Soap Koloa Hawaii	\$19.79	
11/16/2004	Island Soap Koloa Hawaii	\$5.21	
11/16/2004	Koloa Country Store Hawaii	\$71.77	
11/16/2004	Hyatt Hotels Kauai Spa Hawaii	\$73.65	
11/16/2004	Water Wear Hawaii	\$72.92	
11/17/2004	Sand People Koloa Hawaii	\$105.57	
11/17/2004	Hilo Hatties	\$135.28	
11/17/2004	Whaler's General Store	\$110.40	\$1,494.27



DATE	VACATION	AMOUNT
9/5/2005	Sand Pegsle Koloa Hotel	\$122.40
9/5/2005	Hyatt Hotel's Kauai & B Koloa	\$113.28
9/8/2005	EUR Poipu Point Hotel	\$153.28
9/9/2005	Blue Ginger-whaler's	\$135.42
9/9/2005	Endangueal Species	\$42.63
9/11/2005	Leilani's On the Beach	\$41.04
9/12/2005	Leola Of Hawaii	\$62.47
9/13/2005	Hawaiian Stack Key Guitar	\$90.00
9/13/2005	Hawaiian Stack Key Guitar	\$20.00
9/14/2005	Take Home	\$74.78
9/14/2005	ABC Store	\$32.66
9/14/2005	Tidepool Gallery	\$112.19
9/15/2005	EUR Kaanapali-FD	\$568.65
11/5/2002	Sands Kids Koloa	\$28.13
11/5/2002	Whaler's General Store	\$46.83
11/14/2002	Whaler's General Store	\$16.65
11/14/2002	Whaler's General Store	\$137.81
11/14/2002	Whaler's General Store	\$295.75
11/15/2002	DFS Galleria (Hawaii)	\$23.15
11/15/2002	Hilo Hatties	\$349.53
8/23/2003	Marriott Palm Desert	\$105.42
8/23/2003	Marriott Palm Desert	\$105.42
11/5/2004	Boutique Spa Hawaii	\$192.71
11/5/2004	Pleasant Hawaiiin Holiday	\$141.66
11/6/2004	Radisson Hotels Hawaii	\$205.69
11/8/2004	Blue Dolphin Charters Hawaii	\$33.33
11/13/2004	Longs Drug Stores Hawaii	\$62.62
11/14/2004	Poipu Beach Broiler	\$64.25
11/15/2004	Hyatt Hotels Kauai Spa Hawaii	\$199.42
11/16/2004	Island Soap Koloa Hawaii	\$19.79
11/16/2004	Island Soap Koloa Hawaii	\$5.21
11/16/2004	Koloa Country Store Hawaii	\$71.77
11/16/2004	Hyatt Hotels Kauai Spa Hawaii	\$73.65
11/16/2004	Water Wear Hawaii	\$72.92
11/17/2004	Sand People Koloa Hawaii	\$105.57
11/17/2004	Hilo Hatties	\$135.28
11/17/2004	Whaler's General Store	\$110.40
		<b>\$4,171.76</b>

DATE	TRAVEL/CAR RENTAL	AMOUNT	
1/11/2002	Southwest Airlines	\$203.50	
1/11/2002	Southwest Airlines	\$203.50	
2/13/2002	Southwest Airlines	\$136.50	
2/13/2002	Southwest Airlines	\$136.50	
2/13/2002	Southwest Airlines	\$136.50	
4/22/2002	Southwest Airlines	\$500.00	
5/5/2002	Epedia Travel	\$94.50	
5/9/2002	Epedia Travel	\$94.50	
5/20/2002	BGI Budget RAC Ryder TRS	\$322.16	
8/1/2002	Southwest Airlines	\$136.50	
8/1/2002	Southwest Airlines	\$136.50	
8/1/2002	Southwest Airlines	\$136.50	
8/1/2002	Enterprise	\$119.96	
8/1/2002	Avis Rent a Car	\$245.44	
8/12/2002	Southwest Airlines	\$3.00	
8/12/2002	Southwest Airlines	\$105.00	
8/12/2002	Hertz Rent A Car	\$323.31	
8/20/2002	Southwest Airlines	\$55.00	
8/20/2002	Southwest Airlines	\$55.00	
8/21/2002	Southwest Airlines	\$95.00	
8/21/2002	Southwest Airlines	\$95.00	
8/21/2002	Southwest Airlines	\$135.00	
3/23/2002	Southwest Airlines	\$99.00	
3/23/2002	Southwest Airlines	\$115.00	
9/6/2002	Southwest Airlines	\$116.50	
9/6/2002	Southwest Airlines	\$116.50	
9/23/2002	Hertz Rent A Car	\$159.93	
9/30/2002	Enterprise	\$500.00	
10/1/2002	Southwest Airlines	\$84.00	
10/1/2002	Southwest Airlines	\$115.00	
10/1/2002	Southwest Airlines	\$146.00	
10/1/2002	Southwest Airlines	\$146.00	
10/1/2002	Southwest Airlines	\$146.00	
10/4/2002	Southwest Airlines	\$227.00	
10/4/2002	Southwest Airlines	\$227.00	
11/1/2002	Enterprise	\$679.92	\$6,346.72

Date	Travel/Car Rental	Amount
1/1/2005	Avis Rent A car	\$322.74
1/3/2005	Southwest Air	\$218.90
1/3/2005	Southwest Air	\$218.90
1/20/2005	Einstein Noah Bagel	\$37.56
1/23/2005	Original Pancake house	\$30.21
3/9/2005	Southwest Air	240
3/15/2005	budget Rent A Car	186.42
7/7/2005	Hertz	\$141.37

Date	Travel/Car Rental	Amount
2/13/2004	Hertz Rent A Car	\$293.42
2/28/2004	Southwestern Air	\$197.20
2/28/2004	Southwestern Air	\$197.20
26-May	Hertz Rent A Car	\$42.94
5/30/2004	National Car Rental	\$165.38
6/4/2004	Southwestern Air	\$7.50
6/4/2004	Southwestern Air	\$162.60

DATE	MISCELLANEOUS	AMOUNT
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1/11/2002	Shell	\$16.54
1/14/2002	Temecula Car Wash	\$50.29
2/15/2002	Wes' Flowers	\$64.64
3/11/2002	Pechanga Gas	\$20.00
3/20/2002	See's Candy	\$137.55
3/29/2002	U of U Pharmacy	\$324.84
4/8/2002	Rancho Car Wash	\$17.99
4/19/2002	Pechanga Gas	\$30.71
4/25/2002	Texaco	\$29.21
5/6/2002	Texaco	\$23.98
5/16/2002	Chevron	\$29.77

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8/1/2002	Rancho Car Wash	\$137.58
8/1/2002	Davinci San Diego	\$156.23
8/1/2002	Shell	\$23.94
8/1/2002	Chevron	\$166.23
8/1/2002	Chambers	\$350.56
8/12/2002	Oh Fudge	\$35.46
8/1/2002	Chevron	\$28.14
8/1/2002	Ascom	\$530.00
8/1/2002	Labsafe	\$612.36
8/15/2002	Texaco	\$28.94
9/2/2002	Redhawk Gas	\$18.99
9/9/2002	Longs Drugs	\$106.85
9/9/2002	Safeway Lake Tahoe	\$147.38
9/16/2002	Texaco	\$15.25
10/9/2002	Texaco	\$23.56
10/23/2002	Shell	\$18.81
11/18/2002	Shell	\$25.12
12/11/2002	Shell	\$40.16
12/11/2002	Solutions	\$272.50
12/13/2002	Solutions	\$39.00
12/18/2002	Shell	\$28.12
12/18/2002	Stater Brothers	\$122.07
12/19/2002	Vons	\$239.01
12/20/2002	Exxon Mobile	\$17.63
12/20/2002	Solutions	\$19.50
12/26/2002	Stater Brothers	\$135.48
12/27/2002	Stater Brothers	\$85.32
12/30/2002	Stater Brothers	\$103.30
12/30/2002	Ralph's Temecula	\$103.99

**\$4,377.00**

1/6/2003	Shell	\$29.00
1/6/2003	Rancho Car Wash	\$65.14
1/10/2003	Vons	\$28.35
1/20/2003	Vons	\$302.49
1/27/2003	Shell	\$10.98

1/27/2003 Albertson's	\$75.76	
1/30/2003 Shell	\$36.56	
2/3/2003 Depalo & Sons Inc	\$68.18	
2/7/2003 Wes' Flowers	\$88.66	
2/10/2003 Ralph's Temecula	\$31.20	
2/10/2003 Redhawk Gas	\$43.39	
2/10/2003 Ralph's Temecula	\$96.61	
2/10/2003 AT&T	\$253.83	
2/10/2003 Exxon Mobile	\$29.16	
2/12/2003 Adelphia Hemet	\$174.56	\$1,159.31

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Date	Miscellaneous	Amount
1/10/2004	Chevron	\$30.87
1/23/2004	Seminars Natl Padgett	\$157.86
1/24/2004	Petco	\$80.18
1/28/2004	Ace Parking	\$12.00
2/2/2004	Northland Poster MN	\$727.80
2/5/2004	Northland Poster MN	\$5.95
2/20/2004	Northland Poster MN	\$483.60
2/11/2004	Shell Oil	\$36.21
2/18/2004	Shell Oil	\$33.11
20-Feb	Shell Oil	\$38.56
3/21/2004	Rancho Car Wash	\$20.58
3/27/2004	Wheel Chair City	\$361.68
3/28/2004	Rancho Springs Medical Ctr.	\$50.00
4/6/2004	Redhawk Hand Car Wash	\$36.59
4/10/2004	Redhawk Hand Car Wash	\$24.99
4/10/2004	Redhawk Hand Car Wash	\$35.24
4/15/2004	Human RTS Campaign Web	\$250.00
4/20/2004	Exspbee	\$99.00
4/28/2004	Shell Oil	\$46.59
4/29/2004	Shell Oil	\$18.58
4/29/2004	Shell Oil	\$39.09
4/30/2004	Morning Singer AZ	\$95.12
5/9/2004	Redhawk Hand Car Wash	\$90.00
5/24/2004	Shell Oil	\$62.78
5/30/2004	IL Fornaio	\$79.87
6/8/2004	Shell Oil	\$53.06
7/19/2004	Shell Oil	\$58.18
8/1/2004	Ramona Tire	\$26.00
8/2/2004	Redhawk Hand Car Wash	\$54.13
8/6/2004	Adelphia	\$300.20
9/9/2004	Ace Parking	\$4.00
9/22/2004	USPS	\$37.98
9/24/2004	CA Secretary of State	\$25.00
		<b>\$3,474.80</b>

Date	Miscellaneous	Amount
1/1/2005	Chervon	\$57.58
1/10/2005	Chevron	\$62.57
4/2/2005	Lacquer nails	93
4/9/2005	Pechange Gas	34.36
4/30/2005	Lacquer Nails	40
5/22/2005	Shell Oil	63.38
5/31/2005	Ace Parking Downtown	\$12.00
5/31/2005	Ace Parking Downtown	\$12.00
6/7/2005	Chervon	\$25.40
6/7/2005	Adelphia	\$311.56
7/9/2005	Executive Cleaner	\$57.87
7/19/2005	Adelphia	\$97.29
9/20/2005	Cingular Wireless	\$410.51
9/21/2005	Chervon	\$67.87
12/15/2005	Exxon	\$71.53
		<b>\$1,416.92</b>

EXHIBIT NO. 35



Management Proposal to AFSCME Local 127 for a FY98 Extension of MOU

Following is Management's Proposal related to a one year extension of the current MOU between the City of San Diego and the AFSCME, Local 127. This proposal is conditioned upon Local 127 also accepting the terms of the Manager's Proposal of CERS Retirement System Changes Dated June 4, 1996 attached hereto (CERS Proposal); conditioned upon the support of Local 127 for the CERS Proposal when the proposal is considered by the CERS Board and City Council; support of Local 127 when the CERS Proposal is presented to CERS Plan Participants for a Vote; conditioned upon confirmation by the CERS Actuary as to the costs of changes contained in the Proposal, and approval of the CERS Fiduciary Council, City Attorney and City Fiduciary Council including among other issues IRS 415 issues; and final approval of the CERS proposal and this proposal by the City Council.

1. Salary: +4% effective 12/27/97
2. Flex Article: Reopener in FY98
3. Reopener on Tool Allowances and Uniforms
4. Annual Leave:
  - a. Cease to accrue language effective 7/1/97
  - b. Eliminate minimum hrs required to sell 125 hrs pay in lieu
  - c. Increase maximum accumulation for hires after 7/1/93 from 250 hrs to 350 hrs
5. Employee's retirement contribution increases by .55% effective 12/27/97 and by .55% effective on the earliest date in FY99 that General Employees receive a salary increase, to pay employee's half of normal cost of retirement formula improvements going into effect on January 1, 1997.
6. Mileage Reimbursement:
  - .32 effective 7/1/96
  - .33 effective 7/1/97
7. Beginning in FY98, provide Painters a \$.77/hr special assignment pay for the any pay period in which management assigns lead paint abatement work to be performed.
8. Special Salary Adjustments. Local 127 proposals to CSG for studies of special salary increases by mutual agreement. Parties agree to submit to Personnel for classification study the concept of equating GMW's salary range with Laborers; and equating Equipment Tech I's with Heavy Truck Drivers.
9. Effective 7/1/97, City agrees to pay Flex Contribution for employees on TTD or Vocational Rehabilitation, however only for employees on internal TTD or Voc. Rehab.

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10. Effective 7/1/97, provide a \$.77/hr Special Assignment Pay to employees assigned to perform "confined space entries" for each pay period in which the employee was required to perform one or more confined space entries.

<u>Cathy Lepore</u>	<u>6-4-96</u>	<u>Ed Lehman</u>	<u>6-4-96</u>
City of San Diego	Date	AFSCME, Local 127	Date

## City Employees Retirement System

June 4, 1996

### Proposal

It is the City Manager's intent to recommend changes to the City Employees Retirement System related to: (1) retiree health insurance, (2) retirement plan benefits, (3) employer contribution rates, and (4) retirement system reserves. These proposed changes to plan benefits, retiree health insurance, employer rates and system reserves will require approval of the City Council, CERS Board of Administration as well as an affirmative vote of plan members. The City Manager's proposal is being reviewed by outside fiduciary counsel engaged through the City Attorney's Office and has been presented to the CERS Board's fiduciary counsel and actuary for review and advice to the Board. All proposed changes are conditioned upon and subject to final approval by fiduciary counsel, City Council approval, Retirement Board approval, vote of plan participants, and confirmation of cost estimates by the System's actuary.

The interrelationship of these various issues to each other necessitate that the entire proposal be considered and acted upon concurrently. Furthermore, the substantial financial implications to the City compel that certain actions occur in time for Fiscal Year 1997 budget decisions. Necessary ordinances can be prepared for formal amendments to the Municipal Code subsequent to actions by appropriate bodies (City Council, CERS Board, Plan Participants, Employee Unions). Following are the proposed changes.

#### Issue No. 1 - RETIREE HEALTH INSURANCE

- A. Move the Retiree Health Insurance from the City to CERS no later than June 30, 1997.
- B. Pay for Retiree Health Insurance for FY 97 from the Retiree Health Insurance Trust.
- C. Increase cap for POA and Local 145 Retiree Health Plans from \$4500/year to \$4995 only for FY97.
- D. Establish Pre-1980 Retiree Health Insurance as a permanent benefit at a level of \$600 per year.
- E. During FY97, a Task Force of City Manager, CERS Board and Labor Organizations working with actuaries, consultants and legal counsel can develop the necessary documentation to design a tax exempt health insurance benefit to be effective July 1, 1997. The Task Force will recommend benefit level subject to approval by CERS, City Council, and issue an RFP for selection of a common provider. POA and Local 145 will assume full responsibility for any incurred claims under existing health insurance policies.
- F. The existing City Health Insurance Trust (@ \$12.5m) will be used to pay for FY96 Retiree Health Insurance.

- G. CERS will establish a Health Insurance Reserve within CERS. Each year, the upcoming year's projected cost of retiree health insurance will be transferred from undistributed earnings and credited to the Health Insurance Reserve.
- H. Actual premium costs and administrative charges will be charged to the Health Insurance Reserve on a pay-as-you-go basis and will not be actuarially funded.

### Issue No. 2 - CERS BENEFIT CHANGES

- A. Eliminate the existing requirement to offset Disability Income.
- B. Purchase of Service Credit: Continue the existing service credit provisions related to refunds, probationary periods, 1981 Plan waiting period and Military & Veteran Code; incorporate all others into a new general provision of a five (5) year purchase of service credit feature, which would also be available to 1/2 time and 3/4 time employees. Employees would pay into the retirement fund an amount, including interest, equivalent to the employee and employer full cost of such service.
- C. Increase the calculation of the 13th Check for Pre-10/6/80 retirees from \$30 per creditable year of service to \$60 per creditable year of service, and to \$75 per creditable year of service for Pre-12/31/71 retirees.
- D. Increase the benefit to General Members for industrial disability retirements from 33-1/3% to 50%; and increase the General Member formula as described below.

General Member Formula

Age	Present Factor	Proposed Factor
55	1.48%	2.00%
56	1.56%	2.00%
57	1.63%	2.00%
58	1.72%	2.00%
59	1.81%	2.08%
60	1.92%	2.16%
61	1.99%	2.24%
62	2.09%	2.31%
63	2.20%	2.39%
64	2.31%	2.47%
65+	2.43%	2.55%

## Cost of General Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+1.11%	+1.10%	+2.21%
<u>Past Liability</u>	<u>+1.43%</u>		<u>+1.43%</u>
TOTAL COST	+2.54%	+1.10%	+3.64%

Past liability for these two benefit improvements will be paid for by the City through excess earnings.. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings for FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.55% on 12/27/97 and +.55% effective the earliest date in FY99 that General Employees receive a salary increase.

- E. Improve Lifeguard Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings in FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.245% on 12/27/97 and +.245% effective the earliest date in FY99 that Lifeguard employees receive a salary increase.

Age	Present Factor	Proposed Factor
50	2.00%	2.20%
51	2.10%	2.32%
52	2.22%	2.44%
53	2.34%	2.57%
54	2.47%	2.72%
55+	2.62%	2.77%

## Cost of Lifeguard Safety Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+.49%	+.49%	+.98%
<u>Past Liability</u>	<u>+.53</u>		<u>+.53%</u>
TOTAL COST	+1.02%	+.49%	+1.51%

- F. Improve Police and Fire Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97.

Age	Fire Factor	Police Factor	Proposed Factor for Fire & Police
50	2.20%	2.50%	2.50%
51	2.32%	2.54%	2.60%
52	2.44%	2.58%	2.70%
53	2.57%	2.62%	2.80%
54	2.72%	2.66%	2.90%
55+	2.77%	2.70%	2.9999%

Cost of Safety Member Improvements:

<u>FIRE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .73%	+ .72%	+1.45%
<u>Past Liability</u>	<u>+ .91%</u>		<u>+ .91%</u>
Total	+1.64%	+ .72%	+2.36%

Fire employees will pay one-half of the normal cost over two years as follows: +.36% on 4/1/98 and +.36% on 1/1/99.

<u>POLICE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .47%	+ .47%	+ .94%
<u>Past Liability</u>	<u>+ .91%</u>		<u>+ .91%</u>
Total	+1.38%	+ .47%	+1.85%

Police employees will pay one-half of the normal cost over two years as follows: +.235% on 1/1/98 and +.235% on 1/1/99.

- G. The City agrees to implementation of a *Deferred Retirement Option Plan* (DROP) effective April 1, 1997, on the condition that such a plan is approved by the City Attorney's Office as legal under applicable Federal, State and Local laws and regulations, and that such a plan would have no cost impact to the City nor CERS. Employees may participate in this program for up to five (5) years. At the end of three (3) years the evaluate the impact of this program and reserves the unilateral right to prospectively terminate the program. Employee's who elect to participate in DROP will cease participation in CERS, and will participate in SPSP-type plan with a mandatory 3.05% employee contribution matched by 3.05% employer contribution.

### Issue No. 3 - EMPLOYER CONTRIBUTION RATES

- A. Employer rates will be calculated using the Projected Unit Credit (PUC) method. For FY96 and FY97, the City will pay the budgeted rates (bifurcated rate) of 7.08% (blended rate) and 7.33% respectively, and increase the rate paid by 0.50% each year until the rate paid reaches the EAN calculated rate. At such time as the PUC and Entry Age Normal (EAN) rates are equal, the System will convert to EAN.

#### Employer Contribution Rate Stabilization Plan

Period	PUC Rate	City Paid Rate	Difference %	Difference \$
FY96	8.60%	7.08%	1.52%	\$5.33m
FY97	10.87%	7.33%	3.79%	\$13.88m
FY98	12.18%	7.83%	4.35%	\$16.67m
FY99	12.18%	8.33%	3.85%	\$15.40m
FY2000	12.18%	8.83%	3.35%	\$14.00m
FY2001	12.18%	9.33%	2.85%	\$12.45m
FY2002	12.18%	9.83%	2.35%	\$10.72m
FY2003	12.18%	10.33%	1.85%	\$8.82m
FY2004	12.18%	10.83%	1.35%	\$6.73m
FY2005	12.18%	11.33%	.85%	\$4.43m
FY2006	12.18%	11.83%	.35%	\$1.91m
FY2007	12.18%	12.18%	-0-	-0-
FY2008	13.00	13.00%	-0-	-0-
TOTAL				\$110.35*

\*\$110.35 million paid from excess earnings includes \$71.31 million in contributions as a result of benefits improvements recommended herein.

- B. The City will pay the agreed to rates shown above for FY96 through FY2007. The difference between the actuarially calculated rate and the agreed to rate would be transferred from the Stabilization Reserve to the Employers Contribution Reserve. If the amount in the Stabilization Reserve is insufficient to pay the difference in contributions or the funded ratio of the System falls by more than 10% below the funded ratio calculated at the June 30, 1996 valuation, this plan will sunset the year following the actuarial valuation which shows this funded ratio.
- C. There will be no changes in actuarial assumptions or actuarial methodology which would impact employer contribution rates prior to July 1, 2007. If the CERS Board feels its fiduciary responsibility requires a change to actuarial assumptions prior to that date due to extraordinary circumstances, the increase in rate will be added to the PUC rate to be achieved through the phased-in rate increases.

#### Issue No. 4 - SURPLUS UNDISTRIBUTED EARNINGS AND RESERVES

- A. Create a Contingency Reserve not to exceed 1% of System assets at market value. If undistributed earnings are insufficient, funds from the Contingency Reserve will be used, in priority order after crediting the employee and employer reserves and funding the Systems budget, to: (1) pay the insurance premium, (2) pay the 13th check. If the Health Insurance reserve and the contingency reserve were insufficient, the city would be responsible for that year's health insurance premium.
- B. Create a Stabilization Reserve not to exceed \$75 million, as follows: (1) close and transfer the existing "earnings stabilization reserve (\$10.7 million), (2) credit this reserve annually with 50% of "surplus" undistributed earnings. All surplus undistributed earnings will be transferred to the employer contribution reserve when and if the \$75 million limit is reached. These assets will be held outside of assets used for actuarial valuation.



Management Proposal to Local 145 for a FY98 Extension of MOU

Following is Management's Proposal related to a one year extension of the current MOU between the City of San Diego and Local 145. This proposal is conditioned upon Local 145 also accepting the terms of the Manager's Proposal of CERS Retirement System Changes Dated June 4, 1996 attached hereto (CERS Proposal); conditioned upon the support of Local 145 for the CERS Proposal when the proposal is considered by the CERS Board and City Council; support of Local 145 when the CERS Proposal is presented to CERS Plan Participants for a Vote; conditioned upon confirmation by the CERS Actuary as to the costs of changes contained in the Proposal, and approval of the CERS Fiduciary Council, City Attorney and City Fiduciary Council including among other issues IRS 415 compliance; and final approval of the CERS proposal and this proposal by the City Council.

1.    Salary:           +2% 10/1/97  
                          +2% 4/1/98
2.    Flex Article: Reopener in FY98  
                          Task Force recommendations to be concluded by January 1, 1997
3.    EMT Pay:       Increase from 2% to 3-1/2% 7/1/97  
                          Increase from 3-1/2% to 3-3/4% 1/1/98
4.    Captains:     +4% 4/1/98
5.    \$200/yr tool allowance for D-Division (ongoing) each year during September
6.    Special Assignment Pay:  
      Station 28 (all personnel) 5% beginning 7/1/96  
      MAST (all personnel) 5% beginning 7/1/97  
      HazMat (all personnel) 5% increase beginning 7/1/97
7.    Annual Leave:
  - a. Cease to accrue language effective 7/1/97 modified to address constant staffing requirements;
  - b. Reduce minimum from 250 hrs to 160 hrs to sell pay in lieu
  - c. Increase maximum accumulation for hires after 7/1/94 from 250 hrs to 350 hrs
8.    Employee's retirement contribution increases by .72% effective 7/1/98 to pay employee's half of normal cost of retirement formula improvements going into effect on January 1, 1997.
9.    City agrees not to propose reductions in retirement offset through 2002.
10.   Local 145 shall have the right to approve final Municipal Code language implementing the terms of the retirement proposal.

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JUN-15-96 WED  
06/05/96

6:08 PM  
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SD POLICE OFFICERS ASSOC

PRA NO. 233 4221

003

11. Re-opener on issue of transferring Bureau positions to Development Services; to be resolved by January 1, 1997. If no agreement reached, normal impasse procedure will be used.

Cathy Lepin  
City of San Diego

6-5-96  
Date

[Signature] 6/5/96  
Local 145 Date

## City Employees Retirement System

June 4, 1996\*

### Proposal

It is the City Manager's intent to recommend changes to the City Employees Retirement System related to: (1) retiree health insurance, (2) retirement plan benefits, (3) employer contribution rates, and (4) retirement system reserves. These proposed changes to plan benefits, retiree health insurance, employer rates and system reserves will require approval of the City Council, CERS Board of Administration as well as an affirmative vote of plan members. The City Manager's proposal is being reviewed by outside fiduciary counsel engaged through the City Attorney's Office and has been presented to the CERS Board's fiduciary counsel and actuary for review and advice to the Board. All proposed changes are conditioned upon and subject to final approval by fiduciary counsel, City Council approval, Retirement Board approval, vote of plan participants, and confirmation of cost estimates by the System's actuary.

The interrelationship of these various issues to each other necessitate that the entire proposal be considered and acted upon concurrently. Furthermore, the substantial financial implications to the City compel that certain actions occur in time for Fiscal Year 1997 budget decisions. Necessary ordinances can be prepared for formal amendments to the Municipal Code subsequent to actions by appropriate bodies (City Council, CERS Board, Plan Participants, Employee Unions). Following are the proposed changes.

#### Issue No. 1 - RETIREE HEALTH INSURANCE

- A. Move the Retiree Health Insurance from the City to CERS no later than June 30, 1997.
- B. Pay for Retiree Health Insurance for FY 97 from the Retiree Health Insurance Trust.
- C. Increase premium reimbursement for POA and Local 145 Retiree Health Plans from \$4500/year to \$4995 only for FY97.
- D. Establish Pre-1980 Retiree Health Insurance as a permanent benefit at a level of \$600 per year.
- E. During FY97, a Task Force of City Manager, CERS Board and Labor Organizations working with actuaries, consultants and legal counsel can develop the necessary documentation to design a tax exempt health insurance benefit to be effective July 1, 1997. The Task Force will recommend benefit level subject to approval by CERS, City Council, and issue an RFP for selection of a common provider. POA and Local 145 will assume full responsibility for any incurred claims under existing health insurance policies.
- F. The existing City Health Insurance Trust (@ \$12.5m) will be used to pay for FY96 Retiree Health Insurance.

(\*modified 6/5/96)

- G. CERS will establish a Health Insurance Reserve within CERS. Each year, the upcoming year's projected cost of retiree health insurance will be transferred from undistributed earnings and credited to the Health Insurance Reserve.
- H. Actual premium costs and administrative charges will be charged to the Health Insurance Reserve on a pay-as-you-go basis and will not be actuarially funded.

#### Issue No. 2 - CERS BENEFIT CHANGES

- A. Eliminate the existing requirement to offset Disability Income.
- B. Purchase of Service Credit: Continue the existing service credit provisions related to refunds, probationary periods, 1981 Plan waiting period and Military & Veteran Code; incorporate all others into a new general provision of a five (5) year purchase of service credit feature, which would also be available to 1/2 time and 3/4 time employees. Employees would pay into the retirement fund an amount, including interest, equivalent to the employee and employer full cost of such service.
- C. Increase the calculation of the 13th Check for Pre-10/6/80 retirees from \$30 per creditable year of service to \$60 per creditable year of service, and to \$75 per creditable year of service for Pre-12/31/71 retirees.
- D. Increase the benefit to General Members for industrial disability retirements from 33-1/3% to 50%; and increase the General Member formula as described below.

General Member Formula

Age	Present Factor	Proposed Factor
55	1.48%	2.00%
56	1.56%	2.00%
57	1.63%	2.00%
58	1.72%	2.00%
59	1.81%	2.08%
60	1.92%	2.16%
61	1.99%	2.24%
62	2.09%	2.31%
63	2.20%	2.39%
64	2.31%	2.47%
65+	2.43%	2.55%

## Cost of General Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+1.11%	+1.10%	+2.21%
<u>Past Liability</u>	<u>+1.43%</u>	<u>          </u>	<u>+1.43%</u>
TOTAL COST	+2.54%	+1.10%	+3.64%

Past liability for these two benefit improvements will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings for FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.55% on 12/27/97 and +.55% effective the earliest date in FY99 that General Employees receive a salary increase.

- E. Improve Lifeguard Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings in FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.245% on 12/27/97 and +.245% effective the earliest date in FY99 that Lifeguard employees receive a salary increase.

Age	Present Factor	Proposed Factor
50	2.00%	2.20%
51	2.10%	2.32%
52	2.22%	2.44%
53	2.34%	2.57%
54	2.47%	2.72%
55+	2.62%	2.77%

## Cost of Lifeguard Safety Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+.49%	+.49%	+.98%
<u>Past Liability</u>	<u>+.53</u>	<u>          </u>	<u>+.53%</u>
TOTAL COST	+1.02%	+.49%	+1.51%

- F. Improve Police and Fire Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97.

Age	Fire Factor	Police Factor	Proposed Factor for Fire & Police
50	2.20%	2.50%	2.50%
51	2.32%	2.54%	2.60%
52	2.44%	2.58%	2.70%
53	2.57%	2.62%	2.80%
54	2.72%	2.66%	2.90%
55+	2.77%	2.70%	2.9999%

Cost of Safety Member Improvements:

<u>FIRE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .73%	+ .72%	+1.45%
Past Liability	+ .91%		+ .91%
Total	+1.64%	+ .72%	+2.36%

Fire employees will pay one-half of the normal cost by an increase in the employee contribution of .72% effective 7/1/98.

<u>POLICE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .47%	+ .47%	+ .94%
Past Liability	+ .91%		+ .91%
Total	+1.38%	+ .47%	+1.85%

Police employees will pay one-half of the normal cost by an increase in the employee contribution of .47% effective 7/1/98.

- G. The City agrees to implementation of a *Deferred Retirement Option Plan* (DROP) effective April 1, 1997, on the condition that such a plan is approved by the City Attorney's Office as legal under applicable Federal, State and Local laws and regulations, and that such a plan would not increase cost greater than the savings to the City nor CERS. Employees may participate in this program for up to five (5) years. At the end of three (3) years, the City will evaluate the cost impact of this program. If the cost impact to the City or CERS is greater than the savings, the City agrees to meet and confer to impasse prior to imposing any changes in the DROP Plan. If the City proposes to change the DROP Plan, the 90% cap on CERS would also be re-negotiated. Employee's who elect to participate in DROP will cease participation in CERS, and will participate in SPSP-type plan with a mandatory 3.05% employee contribution matched by 3.05% employer contribution.

### Issue No. 3 - EMPLOYER CONTRIBUTION RATES

- A. Employer rates will be calculated using the Projected Unit Credit (PUC) method. For FY96 and FY97, the City will pay the budgeted rates (bifurcated rate) of 7.08% (blended rate) and 7.33% respectively, and increase the rate paid by 0.50% each year until the rate paid reaches the EAN calculated rate. At such time as the PUC and Entry Age Normal (EAN) rates are equal, the System will convert to EAN.

Employer Contribution Rate Stabilization Plan

Period	PUC Rate	City Paid Rate	Difference %	Difference \$
FY96	8.60%	7.08%	1.52%	\$5.33m
FY97	10.87%	7.33%	3.79%	\$13.88m
FY98	12.18%	7.83%	4.35%	\$16.67m
FY99	12.18%	8.33%	3.85%	\$15.40m
FY2000	12.18%	8.83%	3.35%	\$14.00m
FY2001	12.18%	9.33%	2.85%	\$12.45m
FY2002	12.18%	9.83%	2.35%	\$10.72m
FY2003	12.18%	10.33%	1.85%	\$8.82m
FY2004	12.18%	10.83%	1.35%	\$6.73m
FY2005	12.18%	11.33%	.85%	\$4.43m
FY2006	12.18%	11.83%	.35%	\$1.91m
FY2007	12.18%	12.18%	-0-	-0-
FY2008	13.00	13.00%	-0-	-0-
TOTAL				\$110.35*

\*\$110.35 million paid from excess earnings includes \$71.31 million in contributions as a result of benefits improvements recommended herein.

- B. The City will pay the agreed to rates shown above for FY96 through FY2007. The difference between the actuarially calculated rate and the agreed to rate would be transferred from the Stabilization Reserve to the Employers Contribution Reserve. If the amount in the Stabilization Reserve is insufficient to pay the difference in contributions or the funded ratio of the System falls by more than 10% below the funded ratio calculated at the June 30, 1996 valuation, this plan will sunset the year following the actuarial valuation which shows this funded ratio.
- C. There will be no changes in actuarial assumptions or actuarial methodology which would impact employer contribution rates prior to July 1, 2007. If the CERS Board feels its fiduciary responsibility requires a change to actuarial assumptions prior to that date due to extraordinary circumstances, the increase in rate will be added to the PUC rate to be achieved through the phased-in rate increases.

#### Issue No. 4 - SURPLUS UNDISTRIBUTED EARNINGS AND RESERVES

- A. Create a Contingency Reserve not to exceed 1% of System assets at market value. If undistributed earnings are insufficient, funds from the Contingency Reserve will be used, in priority order after crediting the employee and employer reserves and funding the Systems budget, to: (1) pay the insurance premium, (2) pay the 13th check. If the Health Insurance reserve and the contingency reserve were insufficient, the city would be responsible for that year's health insurance premium.
- B. Create a Stabilization Reserve not to exceed \$75 million, as follows: (1) close and transfer the existing "earnings stabilization reserve (\$10.7 million), (2) credit this reserve annually with 50% of "surplus" undistributed earnings. All surplus undistributed earnings will be transferred to the employer contribution reserve when and if the \$75 million limit is reached. These assets will be held outside of assets used for actuarial valuation.



Management Proposal to POA - Changes to Retirement System

Attached hereto is Management's Proposal related to Retirement System Changes Dated June 4, 1996. This Proposal is conditioned upon confirmation by the CERS Actuary as to the costs of changes contained in the Proposal, and approval of the CERS Fiduciary Council, City Attorney and City Fiduciary Council including among other issues IRS 415 issues; and final approval of the CERS Board of Administration and by the City Council.

POA hereby agrees to and will support this Proposal when it is considered by the CERS Board of Administration and by the City Council, and with its members during the Vote of Retirement System Members.

POA shall have the right to approval final Municipal Code language implementing the terms of this agreement.

Cathy Lepore  
City of San Diego

6-5-96  
Date

Harry Cole  
POA President

06-05-96  
Date

R- 287582

## City Employees Retirement System

June 4, 1996\*

### Proposal

It is the City Manager's intent to recommend changes to the City Employees Retirement System related to: (1) retiree health insurance, (2) retirement plan benefits, (3) employer contribution rates, and (4) retirement system reserves. These proposed changes to plan benefits, retiree health insurance, employer rates and system reserves will require approval of the City Council, CERS Board of Administration as well as an affirmative vote of plan members. The City Manager's proposal is being reviewed by outside fiduciary counsel engaged through the City Attorney's Office and has been presented to the CERS Board's fiduciary counsel and actuary for review and advice to the Board. All proposed changes are conditioned upon and subject to final approval by fiduciary counsel, City Council approval, Retirement Board approval, vote of plan participants, and confirmation of cost estimates by the System's actuary.

The interrelationship of these various issues to each other necessitate that the entire proposal be considered and acted upon concurrently. Furthermore, the substantial financial implications to the City compel that certain actions occur in time for Fiscal Year 1997 budget decisions. Necessary ordinances can be prepared for formal amendments to the Municipal Code subsequent to actions by appropriate bodies (City Council, CERS Board, Plan Participants, Employee Unions). Following are the proposed changes.

#### Issue No. 1 - RETIREE HEALTH INSURANCE

- A. Move the Retiree Health Insurance from the City to CERS no later than June 30, 1997.
- B. Pay for Retiree Health Insurance for FY 97 from the Retiree Health Insurance Trust.
- C. Increase premium reimbursement for POA and Local 145 Retiree Health Plans from \$4500/year to \$4995 only for FY97.
- D. Establish Pre-1980 Retiree Health Insurance as a permanent benefit at a level of \$600 per year.
- E. During FY97, a Task Force of City Manager, CERS Board and Labor Organizations working with actuaries, consultants and legal counsel can develop the necessary documentation to design a tax exempt health insurance benefit to be effective July 1, 1997. The Task Force will recommend benefit level subject to approval by CERS, City Council, and issue an RFP for selection of a common provider. POA and Local 145 will assume full responsibility for any incurred claims under existing health insurance policies.
- F. The existing City Health Insurance Trust (@ \$12.5m) will be used to pay for FY96 Retiree Health Insurance.

(\*modified 6/5/96)

Management Proposal to MEA for a FY98 Extension of MOU

Following is Management's Proposal related to a one year extension of the current MOU between the City of San Diego and the Municipal Employees Association (MEA). This proposal is conditioned upon MEA also accepting the terms of the Manager's Proposal of CERS Retirement System Changes Dated June 4, 1996, attached hereto (CERS Proposal); conditioned upon the support of MEA for the CERS Proposal when the proposal is considered by the CERS Board and City Council; support of MEA when the CERS Proposal is presented to CERS Plan Participants for a Vote; conditioned upon confirmation by the CERS Actuary as to the costs of changes contained in the Proposal, and approval of the CERS Fiduciary Council, City Attorney and City Fiduciary Council including among other issues IRS 415 issues; and final approval of the CERS proposal and this proposal by the City Council.

1. Salary: +4% 12/27/97  
+5% for Legal Secretaries, Sr. Legal Secretaries,  
Executive Secretaries and Principal Clerks effective 1/1/98.
2. Flex Article: Reopener in FY98 on Flex Value and design including discussions regarding the use of Retiree Health Insurance Trust
3. EMT Pay: Effective July 1, 1997, all Lifeguard II, Lifeguard III, Lifeguard Sergeants and Lifeguard Lieutenants who are EMT certified will receive an additional 2% of base pay. Effective July 1, 1997, a random drug/alcohol testing program comparable to Fire Department's design will be implemented.
4. Annual Leave:
  - a. Cease to accrue language effective 7/1/97 modified to address circumstances in which employee was not able to reduce leave balance, after selling back maximum allowed hours, due to having requests for leave denied.
  - b. Eliminate minimum hrs required to sell 125 hrs pay in lieu
  - c. Increase maximum accumulation for hires after 7/1/93 from 250 hrs to 350 hrs
8. Employee's retirement contribution: General Members increases by .55% on 12/27/97 and by .55% on the date of MEA's general salary increase in FY99 to pay employee's half of normal cost of retirement formula improvements going into effect on January 1, 1997. Lifeguard Members retirement contribution increases by .245% on 12/27/97 and by .245% on the date of MEA general salary increase if FY99.

A- 287582

9. 4/10 Work Schedules for Lifeguards

The City agrees to develop a plan to implement 4/10 work schedules for Lifeguards with the understanding that any such work schedule would have no cost impact to the City, nor negative impact on service level. If such a plan can be agreed to, the City will implement a pilot 4/10 schedule. The City will retain the unilateral right to return to the prior schedule should costs or service levels be negatively impacted.

10. Article 10 - Personnel Practices

E.

1. Performance Reports: Add - The approval for late EPR's should be submitted to employee in writing, and include reasons for the delay and approval.

City rejects MEA proposal that approvals for late EPR's are not to be granted for EPR's for less than satisfactory ratings.

2. Add: An employee shall only be rated by the immediate supervisor. If the first line supervisor is unavailable, the next higher level supervisor will be the rater. The rater should consult with the OCA supervisor(s) during the rating period for input.

City generally agrees to MEA proposal that employees have a Performance Plan Conference when employee is assigned to a new supervisor, however this should apply only when a new permanent supervisor is assigned (not for temporary assignments, light duty assignments, short term OCA's etc).

City accepts MEA proposal that Performance Development Plans for Satisfactory or better employees must be subject to mutual agreement.

The City agrees to a joint committee to discuss guidelines and trainings related to incorporation of performance based measurements into EPR's. MEA shall have three representatives on this committee.

11. Special Salary Adjustments: MEA proposals to the Civil Service Commission for studies of special salary increases may only be submitted with Management concurrence.

12. Article 28: Flexible Benefits.

City agrees to continue to pay the Flex Allocation up to 12 months for employees on TTD or Vocational Rehabilitation, however only for employees on internal TTD or Vocational Rehab.

13. Article 38: Transportation Programs

Mileage reimbursement rate shall be \$.32 effective 7/1/96 and \$.33 effective 7/1/97.

City agrees to providing mileage checks within 2 weeks of submitting timely and accurate requests.

14. Article 57: Overtime

City and MEA will prepare a *Scheduled Overtime Distribution Procedure* for the Bureau of Lifeguard Services by June 30, 1996.

15. Article 59: LTD/Industrial Leave

City agrees to base LTD benefit on earnings of employee at time employee is removed from work due to disability.

16. Article 81: Training Reimbursement

City agrees to MEA proposal providing increased flexibility of tuition reimbursement to cover training situations not currently covered.

17. Article 88 (new): Voluntary Certification Pay

The City and MEA agree to meet and confer regarding the City's proposed voluntary certification program. If agreement is not reached, there shall be no implementation of the program through the term of this MOU.

18. Article 89 (new): Pilot Performance Management Program

The City and MEA agree to meet and confer regarding the City's proposed Pilot Performance Management Program. If agreement is not reached, there shall be no implementation of the program through the term of this MOU.

19. 5% Special Assignment Pay: Effective July 1, 1997, Water Utility Supervisors who are assigned to confined space entry teams for each pay period in which the employee was required to assist with, supervise and/or make one or more confined space entries. It is also the City's intent to provide dry suits and Hepatitis B shots for these employees July 1, 1996.

Cathy Lefevre  
City of San Diego

6/5/96  
Date

Guido M. Italiano 6/5/96  
MEA Date

## City Employees Retirement System

June 4, 1996

### Proposal

It is the City Manager's intent to recommend changes to the City Employees Retirement System related to: (1) retiree health insurance, (2) retirement plan benefits, (3) employer contribution rates, and (4) retirement system reserves. These proposed changes to plan benefits, retiree health insurance, employer rates and system reserves will require approval of the City Council, CERS Board of Administration as well as an affirmative vote of plan members. The City Manager's proposal is being reviewed by outside fiduciary counsel engaged through the City Attorney's Office and has been presented to the CERS Board's fiduciary counsel and actuary for review and advice to the Board. All proposed changes are conditioned upon and subject to final approval by fiduciary counsel, City Council approval, Retirement Board approval, vote of plan participants, and confirmation of cost estimates by the System's actuary.

The interrelationship of these various issues to each other necessitate that the entire proposal be considered and acted upon concurrently. Furthermore, the substantial financial implications to the City compel that certain actions occur in time for Fiscal Year 1997 budget decisions. Necessary ordinances can be prepared for formal amendments to the Municipal Code subsequent to actions by appropriate bodies (City Council, CERS Board, Plan Participants, Employee Unions). Following are the proposed changes.

#### Issue No. 1 - RETIREE HEALTH INSURANCE

- A. Move the Retiree Health Insurance from the City to CERS no later than June 30, 1997.
- B. Pay for Retiree Health Insurance for FY 97 from the Retiree Health Insurance Trust.
- C. Increase cap for POA and Local 145 Retiree Health Plans from \$4500/year to \$4995 only for FY97.
- D. Establish Pre-1980 Retiree Health Insurance as a permanent benefit at a level of \$600 per year.
- E. During FY97, a Task Force of City Manager, CERS Board and Labor Organizations working with actuaries, consultants and legal counsel can develop the necessary documentation to design a tax exempt health insurance benefit to be effective July 1, 1997. The Task Force will recommend benefit level subject to approval by CERS, City Council, and issue an RFP for selection of a common provider. POA and Local 145 will assume full responsibility for any incurred claims under existing health insurance policies.
- F. The existing City Health Insurance Trust (@ \$12.5m) will be used to pay for FY96 Retiree Health Insurance.

- G. CERS will establish a Health Insurance Reserve within CERS. Each year, the upcoming year's projected cost of retiree health insurance will be transferred from undistributed earnings and credited to the Health Insurance Reserve.
- H. Actual premium costs and administrative charges will be charged to the Health Insurance Reserve on a pay-as-you-go basis and will not be actuarially funded.

Issue No. 2 - CERS BENEFIT CHANGES

- A. Eliminate the existing requirement to offset Disability Income.
- B. Purchase of Service Credit: Continue the existing service credit provisions related to refunds, probationary periods, 1981 Plan waiting period and Military & Veteran Code; incorporate all others into a new general provision of a five (5) year purchase of service credit feature, which would also be available to ½ time and ¾ time employees. Employees would pay into the retirement fund an amount, including interest, equivalent to the employee and employer full cost of such service.
- C. Increase the calculation of the 13th Check for Pre-10/6/80 retirees from \$30 per creditable year of service to \$60 per creditable year of service, and to \$75 per creditable year of service for Pre-12/31/71 retirees.
- D. Increase the benefit to General Members for industrial disability retirements from 33-1/3% to 50%; and increase the General Member formula as described below.

General Member Formula

Age	Present Factor	Proposed Factor
55	1.48%	2.00%
56	1.56%	2.00%
57	1.63%	2.00%
58	1.72%	2.00%
59	1.81%	2.08%
60	1.92%	2.16%
61	1.99%	2.24%
62	2.09%	2.31%
63	2.20%	2.39%
64	2.31%	2.47%
65+	2.43%	2.55%

## Cost of General Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+1.11%	+1.10%	+2.21%
<u>Past Liability</u>	<u>+1.43%</u>		<u>+1.43%</u>
TOTAL COST	+2.54%	+1.10%	+3.64%

Past liability for these two benefit improvements will be paid for by the City through excess earnings.. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings for FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.55% on 12/27/97 and +.55% effective the earliest date in FY99 that General Employees receive a salary increase.

- E. Improve Lifeguard Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's shall will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings in FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.245% on 12/27/97 and +.245% effective the earliest date in FY99 that Lifeguard employees receive a salary increase.

Age	Present Factor	Proposed Factor
50	2.00%	2.20%
51	2.10%	2.32%
52	2.22%	2.44%
53	2.34%	2.57%
54	2.47%	2.72%
55+	2.62%	2.77%

## Cost of Lifeguard Safety Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+. 49%	+. 49%	+. 98%
<u>Past Liability</u>	<u>+. 53</u>		<u>+. 53%</u>
TOTAL COST	+1.02%	+. 49%	+1.51%



- F. Improve Police and Fire Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's shall will be added to the actuarial rate (PUC) calculations beginning mid-year FY97.

Age	Fire Factor	Police Factor	Proposed Factor for Fire & Police
50	2.20%	2.50%	2.50%
51	2.32%	2.54%	2.60%
52	2.44%	2.58%	2.70%
53	2.57%	2.62%	2.80%
54	2.72%	2.66%	2.90%
55+	2.77%	2.70%	2.9999%

Cost of Safety Member Improvements:

<u>FIRE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .73%	+ .72%	+1.45%
<u>Past Liability</u>	<u>+ .91%</u>		<u>+ .91%</u>
Total	+1.64%	+ .72%	+2.36%

Fire employees will pay one-half of the normal cost over two years as follows: +.36% on 4/1/98 and +.36% on 1/1/99.

<u>POLICE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .47%	+ .47%	+ .94%
<u>Past Liability</u>	<u>+ .91%</u>		<u>+ .91%</u>
Total	+1.38%	+ .47%	+1.85%

Police employees will pay one-half of the normal cost over two years as follows: +.235% on 1/1/98 and +.235% on 1/1/99.

- G. The City agrees to implementation of a *Deferred Retirement Option Plan* (DROP) effective April 1, 1997, on the condition that such a plan is approved by the City Attorney's Office as legal under applicable Federal, State and Local laws and regulations, and that such a plan would have no cost impact to the City nor CERS. Employees may participate in this program for up to five (5) years. At the end of three (3) years the evaluate the impact of this program and reserves the unilateral right to prospectively terminate the program. Employee's who elect to participate in DROP will cease participation in CERS, and will participate in SPSP-type plan with a mandatory 3.05% employee contribution matched by 3.05% employer contribution.

### Issue No. 3 - EMPLOYER CONTRIBUTION RATES

- A. Employer rates will be calculated using the Projected Unit Credit (PUC) method. For FY96 and FY97, the City will pay the budgeted rates (bifurcated rate) of 7.08% (blended rate) and 7.33% respectively, and increase the rate paid by 0.50% each year until the rate paid reaches the EAN calculated rate. At such time as the PUC and Entry Age Normal (EAN) rates are equal, the System will convert to EAN.

#### Employer Contribution Rate Stabilization Plan

Period	PUC Rate	City Paid Rate	Difference %	Difference \$
FY96	8.60%	7.08%	1.52%	\$5.33m
FY97	10.87%	7.33%	3.79%	\$13.88m
FY98	12.18%	7.83%	4.35%	\$16.67m
FY99	12.18%	8.33%	3.85%	\$15.40m
FY2000	12.18%	8.83%	3.35%	\$14.00m
FY2001	12.18%	9.33%	2.85%	\$12.45m
FY2002	12.18%	9.83%	2.35%	\$10.72m
FY2003	12.18%	10.33%	1.85%	\$8.82m
FY2004	12.18%	10.83%	1.35%	\$6.73m
FY2005	12.18%	11.33%	.85%	\$4.43m
FY2006	12.18%	11.83%	.35%	\$1.91m
FY2007	12.18%	12.18%	-0-	-0-
FY2008	13.00	13.00%	-0-	-0-
TOTAL				\$110.35*

\*\$110.35 million paid from excess earnings includes \$71.31 million in contributions as a result of benefits improvements recommended herein.

- B. The City will pay the agreed to rates shown above for FY96 through FY2007. The difference between the actuarially calculated rate and the agreed to rate would be transferred from the Stabilization Reserve to the Employers Contribution Reserve. If the amount in the Stabilization Reserve is insufficient to pay the difference in contributions or the funded ratio of the System falls by more than 10% below the funded ratio calculated at the June 30, 1996 valuation, this plan will sunset the year following the actuarial valuation which shows this funded ratio.
- C. There will be no changes in actuarial assumptions or actuarial methodology which would impact employer contribution rates prior to July 1, 2007. If the CERS Board feels its fiduciary responsibility requires a change to actuarial assumptions prior to that date due to extraordinary circumstances, the increase in rate will be added to the PUC rate to be achieved through the phased-in rate increases.

#### Issue No. 4 - SURPLUS UNDISTRIBUTED EARNINGS AND RESERVES

- A. Create a Contingency Reserve not to exceed 1% of System assets at market value. If undistributed earnings are insufficient, funds from the Contingency Reserve will be used, in priority order after crediting the employee and employer reserves and funding the Systems budget, to: (1) pay the insurance premium, (2) pay the 13th check. If the Health Insurance reserve and the contingency reserve were insufficient, the city would be responsible for that year's health insurance premium.
- B. Create a Stabilization Reserve not to exceed \$75 million, as follows: (1) close and transfer the existing "earnings stabilization reserve (\$10.7 million), (2) credit this reserve annually with 50% of "surplus" undistributed earnings. All surplus undistributed earnings will be transferred to the employer contribution reserve when and if the \$75 million limit is reached. These assets will be held outside of assets used for actuarial valuation.

EXHIBIT NO. 36

INTERNAL REVENUE SERVICE  
VOLUNTARY CORRECTION PROGRAM  
COMPLIANCE STATEMENT

Date: \_\_\_\_\_  
(to be completed by IRS)

Re: San Diego City Employees' Retirement System  
SE:T:EP:RA Control Number: 911659038  
Employer Identification Number: 20-1800126  
Plan No.: 001

I. APPLICANT'S DESCRIPTION OF QUALIFICATION FAILURE(S)

The City of San Diego ("Plan Sponsor") is the principal sponsor of the San Diego City Employees' Retirement System ("Plan"). In accordance with state and local laws, the Board of Administration For The San Diego City Employees' Retirement System ("the Applicant") is responsible for the daily administration in regard to the Plan, and has submitted a request to the Internal Revenue Service ("the Service") under the Voluntary Correction Program for a compliance statement relating to various qualification failures under section 401(a) of the Internal Revenue Code ("Code") that they have identified. The Plan uses the twelve-month period that ends on June 30 as its plan year. The Plan is a multiple employer defined benefit pension plan that has also been adopted by the San Diego Unified Port District and the San Diego County Regional Airport Authority. The Plan is also considered a governmental plan under Code section 414(d).

Failure #1

The Plan was not amended to comply with all of the applicable requirements of the Tax Reform Act of 1986 ("TRA '86"), the Unemployment Compensation Amendments of 1992 ("UCA"), and the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") by the required dates in accordance with section 401(b) of Code and regulations thereunder.

Failure #2

The Plan was not amended to comply with all of the applicable requirements of the Uruguay Round Agreements Act; the Uniformed Services Employment and Reemployment Rights Act of 1994; the Small Business Job Protection Act of 1996; the Taxpayer Relief Act of 1997; the Internal Revenue Service Restructuring and Reform Act of 1998; and the Community Renewal Tax Relief Act of 2000 (collectively known as "GUST") by the required dates in accordance with section 401(b) of the Code and regulations thereunder.

## San Diego City Employees' Retirement System

### Failure #3

The Plan was not amended to incorporate the interim amendments required for compliance with the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") by the required date(s) in accordance with section 401(b) of the Code and regulations thereunder.

### Failure #4

During the plan years that ended in 1989 through 2008, the terms of the Plan provided special retirement benefits to past and current union presidents of the San Diego Municipal Employees' Association, Police Officers' Association, and Local 145, the International Association of Fire Fighters AFL-CIO ("Unions") that were not permitted by the Code. Under Code section 401(a), retirement benefits in a qualified plan can only be provided to employees of an employer and such benefits are generally based solely on service with and compensation paid by such employer. Specifically, the following problems were noted:

- (a) The Presidential Leave Program allowed former city employees who were no longer paid employees of the Plan Sponsor to continue to participate in the Plan as active participants and have their service as union presidents counted as credited service in determining retirement benefits under the Plan.
- (b) From 1989 through February 2004, the Plan accepted employee and employer contributions (based upon compensation paid by the Unions) that were paid by the Unions even though they had not adopted the Plan as participating employers.
- (c) Starting in 2002, the Incumbent President Program allowed compensation that was paid to the union presidents by the Unions to be counted in the determination of retirement benefits under the Plan, and such amounts would be combined with any other compensation paid by the Plan Sponsor subject to a specified dollar cap.

### Failure #5

Starting in the plan year that ended in 2003 the terms of the Plan were amended to provide for an impermissible cash or deferred arrangement in violation of the Code section 401(a) in regard to the Cashless Leave Conversion Program that was offered to participants who were members of San Diego Firefighters Local 145 bargaining unit.

### Failure #6

During the plan years that ended in 1983 through 1991 retiree health benefits were paid by the Plan even though the terms of the Plan did not provide for such benefits. Also, the Applicant represents that the Plan is owed additional funds from the Plan Sponsor relating to unreimbursed administrative expenses associated with the administration of the retiree health benefit account from 1993 through 2006. Both actions were in

EXHIBIT NO. 37



# Labor-Management Reporting and Disclosure Act of 1959, As Amended

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## ---DISCLAIMER---

[Revised text<sup>1</sup> shows new or amended language in boldface type.]

**Public Law 86-257, September 14, 1959, 73 Stat. 519-546, as amended by:**

**Public Law 89-216, September 29, 1965, 79 Stat. 888**

**Public Law 98-473, October 12, 1984, 98 Stat. 2031, 2133, 2134**

**Public Law 99-217, December 26, 1985, 99 Stat. 1728**

**Public Law 100-182, December 7, 1987, 101 Stat. 1266, 1269**

## AN ACT

To provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Labor-Management Reporting and Disclosure Act of 1959."*

### **Declaration of Findings, Purposes, and Policy**

(29 U.S.C. 401)

SEC. 2. (a) The Congress finds that, in the public interest, it continues to be the responsibility of the Federal Government to protect employees' rights to organize, choose their own representatives, bargain collectively, and otherwise engage in concerted activities for their mutual aid or protection; that the relations between employers and labor organizations and the millions of workers they represent have a substantial impact on the commerce of the Nation; and that in order to accomplish the objective of a free flow of commerce it is essential that labor organizations, employers, and their officials adhere to the highest standards of responsibility and ethical conduct in administering the affairs of their organizations, particularly as they affect labor-management relations.

(b) The Congress further finds, from recent investigations in the labor and management fields, that there have been a number of instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct which require further and supplementary legislation that will afford necessary protection of the rights and



interests of employees and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers and representatives.

(c) The Congress, therefore, further finds and declares that the enactment of this Act is necessary to eliminate or prevent improper practices on the part of labor organizations, employers, labor relations consultants, and their officers and representatives which distort and defeat the policies of the Labor Management Relations Act, 1947, as amended, and the Railway Labor Act, as amended, and have the tendency or necessary effect of burdening or obstructing commerce by (1) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (2) occurring in the current of commerce; (3) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods into or from the channels of commerce, or the prices of such materials or goods in commerce; or (4) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing into or from the channels of commerce.

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## Definitions

(29 U.S.C. 402)

SEC. 3. For the purposes of titles I, II, III, IV, V (except section 505), and VI of this Act-

(a) "Commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(b) "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).

(c) "Industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

(d) "Person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code,<sup>2</sup> or receivers.

(e) "Employer" means any employer or any group or association of employers engaged in an industry affecting commerce (1) which is, with respect to employees engaged in an industry affecting commerce, an employer within the meaning of any law of the United States relating to the employment of any employees or (2) which may deal with any labor organization concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and includes any person acting directly or indirectly as an employer or as an agent of an employer in relation to an employee but does not include the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.

(f) "Employee" means any individual employed by an employer, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice or because of exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this Act.

(g) "Labor dispute" includes any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(h) "Trusteeship" means any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws.

(i) "Labor organization" means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body.

(j) A labor organization shall be deemed to be engaged in an industry affecting commerce if it -

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection, other than a State or local central body.

(k) "Secret ballot" means the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.

(l) "Trust in which a labor organization is interested" means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

(m) "Labor relations consultant" means any person who, for compensation, advises or represents an

employer, employer organization, or labor organization concerning employee organizing, concerted activities, or collective bargaining activities.

(n) "Officer" means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body.

(o) "Member" or "member in good standing", when used in reference to a labor organization, includes any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership after appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization.

(p) "Secretary" means the Secretary of Labor.

(q) "Officer, agent, shop steward, or other representative", when used with respect to a labor organization, includes elected officials and key administrative personnel, whether elected or appointed (such as business agents, heads of departments or major units, and organizers who exercise substantial independent authority), but does not include salaried nonsupervisory professional staff, stenographic, and service personnel.

(r) "District court of the United States" means a United States district court and a United States court of any place subject to the jurisdiction of the United States.

## **TITLE I -- BILL OF RIGHTS OF MEMBERS OF LABOR ORGANIZATIONS**

### **Bill of Rights**

(29 U.S.C. 411)

SEC. 101. (a)(1) EQUAL RIGHTS.-- Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2) FREEDOM OF SPEECH AND ASSEMBLY.-- Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: *Provided*, That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

(3) DUES, INITIATION FEES, AND ASSESSMENTS.-- Except in the case of a federation of national or international labor organizations, the rates of dues and initiation fees payable by members of any labor organization in effect on the date of enactment of this Act shall not be increased, and no general or special assessment shall be levied upon such members, except-

(A) in the case of a local organization, (i) by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question, or (ii) by majority vote of the members in good standing voting in a membership referendum conducted by secret ballot; or

(B) in the case of a labor organization, other than a local labor organization or a federation of national or international labor organizations, (i) by majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than thirty days' written notice to the principal office of each local or constituent labor organization entitled to such notice, or (ii) by majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot, or (iii) by majority vote of the members of the executive board or similar governing body of such labor organization, pursuant to express authority contained in the constitution and bylaws of such labor organization: *Provided*, That such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

(4) PROTECTION OF THE RIGHT TO SUE.-- No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided*, That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a four-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof: *And provided further*, That no interested employer or employer association shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance, or petition.

(5) SAFEGUARDS AGAINST IMPROPER DISCIPLINARY ACTION.-- No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (A) served with written specific charges; (B) given a reasonable time to prepare his defense; (C) afforded a full and fair hearing.

(b) Any provision of the constitution and bylaws of any labor organization which is inconsistent with the provisions of this section shall be of no force or effect.

## **Civil Enforcement**

(29 U.S.C. 412)

SEC. 102. Any person whose rights secured by the provisions of this title have been infringed by any violation of this title may bring a civil action in a district court of the United States for such relief (including injunctions) as may be appropriate. Any such action against a labor organization shall be brought in the district court of the United States for the district where the alleged violation occurred, or where the principal office of such labor organization is located.

## **Retention of Existing Rights**

(29 U.S.C. 413)

SEC. 103. Nothing contained in this title shall limit the rights and remedies of any member of a labor organization under any State or Federal law or before any court or other tribunal, or under the constitution and bylaws of any labor organization.

### **Right to Copies of Collective Bargaining Agreements**

(29 U.S.C. 414)

SEC. 104. It shall be the duty of the secretary or corresponding principal officer of each labor organization, in the case of a local labor organization, to forward a copy of each collective bargaining agreement made by such labor organization with any employer to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement, and in the case of a labor organization other than a local labor organization, to forward a copy of any such agreement to each constituent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer copies of any such agreement made or received by such labor organization, which copies shall be available for inspection by any member or by any employee whose rights are affected by such agreement. The provisions of section 210 shall be applicable in the enforcement of this section.

### **Information as to Act**

(29 U.S.C. 415)

SEC. 105. Every labor organization shall inform its members concerning the provisions of this Act.

## **TITLE II -- REPORTING BY LABOR ORGANIZATIONS, OFFICERS AND EMPLOYEES OF LABOR ORGANIZATIONS, AND EMPLOYERS**

### **Report of Labor Organizations**

(29 U.S.C. 431)

SEC. 201. (a) Every labor organization shall adopt a constitution and bylaws and shall file a copy thereof with the Secretary, together with a report, signed by its president and secretary or corresponding principal officers, containing the following information-

- (1) the name of the labor organization, its mailing address, and any other address at which it maintains its principal office or at which it keeps the records referred to in this title;
- (2) the name and title of each of its officers;
- (3) the initiation fee or fees required from a new or transferred member and fees for work permits required by the reporting labor organization;
- (4) the regular dues or fees or other periodic payments required to remain a member of the reporting labor organization; and
- (5) detailed statements, or references to specific provisions of documents filed under this subsection which contain such statements, showing the provisions made and procedures followed with respect to

each of the following: (A) qualifications for or restrictions on membership, (B) levying of assessments, (C) participation in insurance or other benefit plans, (D) authorization for disbursement of funds of the labor organization, (E) audit of financial transactions of the labor organization, (F) the calling of regular and special meetings, (G) the selection of officers and stewards and of any representatives to other bodies composed of labor organizations' representatives, with a specific statement of the manner in which each officer was elected, appointed, or otherwise selected, (H) discipline or removal of officers or agents for breaches of their trust, (I) imposition of fines, suspensions, and expulsions of members, including the grounds for such action and any provision made for notice, hearing, judgment on the evidence, and appeal procedures, (J) authorization for bargaining demands, (K) ratification of contract terms, (L) authorization for strikes, and (M) issuance of work permits. Any change in the information required by this subsection shall be reported to the Secretary at the time the reporting labor organization files with the Secretary the annual financial report required by subsection (b).

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(b) Every labor organization shall file annually with the Secretary a financial report signed by its president and treasurer or corresponding principal officers containing the following information in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year-

- (1) assets and liabilities at the beginning and end of the fiscal year;
- (2) receipts of any kind and the sources thereof,
- (3) salary, allowances, and other direct or indirect disbursements (including reimbursed expenses) to each officer and also to each employee who, during such fiscal year, received more than \$10,000 in the aggregate from such labor organization and any other labor organization affiliated with it or with which it is affiliated, or which is affiliated with the same national or international labor organization;
- (4) direct and indirect loans made to any officer, employee, or member, which aggregated more than \$250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment;
- (5) direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment; and
- (6) other disbursements made by it including the purposes thereof, all in such categories as the Secretary may prescribe.

(c) Every labor organization required to submit a report under this title shall make available the information required to be contained in such report to all of its members, and every such labor organization and its officers shall be under a duty enforceable at the suit of any member of such organization in any State court of competent jurisdiction or in the district court of the United States for the district in which such labor organization maintains its principal office, to permit such member for just cause to examine any books, records, and accounts necessary to verify such report. The court in such action may, in its discretion, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

(d) Subsections (f), (g), and (h) of section 9 of the National Labor Relations Act, as amended, are hereby repealed.

(e) Clause (i) of section 8(a)(3) of the National Labor Relations Act, as amended, is amended by striking

out the following: "and has at the time the agreement was made or within the preceding twelve months received from the Board a notice of compliance with section 9(f), (g), (h)".

## **Report of Officers and Employees of Labor Organizations**

(29 U.S.C. 432)

SEC. 202. (a) Every officer of a labor organization and every employee of a labor organization (other than an employee performing exclusively clerical or custodial services) shall file with the Secretary a signed report listing and describing for his preceding fiscal year-

(1) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child derived directly or indirectly from, an employer whose employees such labor organization represents or is actively seeking to represent, except payments and other benefits received as a bona fide employee of such employer;

(2) any transaction in which he or his spouse or minor child engaged, directly or indirectly, involving any stock, bond, security, or loan to or from, or other legal or equitable interest in the business of an employer whose employees such labor organization represents or is actively seeking to represent;

(3) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees such labor organization represents or is actively seeking to represent;

(4) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, a business any part of which consists of buying from, or selling or leasing directly or indirectly to, or otherwise dealing with such labor organization;

(5) any direct or indirect business transaction or arrangement between him or his spouse or minor child and any employer whose employees his organization represents or is actively seeking to represent, except work performed and payments and benefits received as a bona fide employee of such employer and except purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such employer; and

(6) any payment of money or other thing of value (including reimbursed expenses) which he or his spouse or minor child received directly or indirectly from any employer or any person who acts as a labor relations consultant to an employer, except payments of the kinds referred to in section 302(c) of the Labor Management Relations Act, 1947, as amended.

(b) The provisions of paragraphs (1), (2), (3), (4), and (5) of subsection (a) shall not be construed to require any such officer or employee to report his bona fide investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934, in shares in an investment company registered under the Investment Company Act or in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935,

or to report any income derived therefrom.

(c) Nothing contained in this section shall be construed to require any officer or employee of a labor organization to file a report under subsection (a) unless he or his spouse or minor child holds or has held an interest, has received income or any other benefit with monetary value or a loan, or has engaged in a transaction described therein.

## Report of Employers

(29 U.S.C. 433)

SEC. 203. (a) Every employer who in any fiscal year made-

- 
- (1) any payment or loan, direct or indirect, of money or other thing of value (including reimbursed expenses), or any promise or agreement therefor, to any labor organization or officer, agent, shop steward, or other representative of a labor organization, or employee of any labor organization, except (A) payments or loans made by any national or State bank, credit union, insurance company, savings and loan association or other credit institution and (B) payments of the kind referred to in section 302(c) of the Labor Management Relations Act, 1947, as amended;
  - (2) any payment (including reimbursed expenses) to any of his employees, or any group or committee of such employees, for the purpose of causing such employee or group or committee of employees to persuade other employees to exercise or not to exercise, or as the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing unless such payments were contemporaneously or previously disclosed to such other employees;
  - (3) any expenditure, during the fiscal year, where an object thereof, directly or indirectly, is to interfere with, restrain, or coerce employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing, or is to obtain information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;
  - (4) any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertakes activities where an object thereof, directly or indirectly, is to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing, or undertakes to supply such employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding; or
  - (5) any payment (including reimbursed expenses) pursuant to an agreement or arrangement described in subdivision (4);

shall file with the Secretary a report, in a form prescribed by him, signed by its president and treasurer or corresponding principal officers showing in detail the date and amount of each such payment, loan, promise, agreement, or arrangement and the name, address, and position, if any, in any firm or labor organization of the person to whom it was made and a full explanation of the circumstances of all such payments, including the terms of any agreement or understanding pursuant to which they were made.

(b) Every person who pursuant to any agreement or arrangement with an employer undertakes activities where an object thereof is, directly or indirectly-



(1) to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or

(2) to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

shall file within thirty days after entering into such agreement or arrangement a report with the Secretary, signed by its president and treasurer or corresponding principal officers, containing the name under which such person is engaged in doing business and the address of its principal office, and a detailed statement of the terms and conditions of such agreement or arrangement. Every such person shall file annually, with respect to each fiscal year during which payments were made as a result of such an agreement or arrangement, a report with the Secretary, signed by its president and treasurer or corresponding principal officers, containing a statement (A) of its receipts of any kind from employers on account of labor relations advice or services, designating the sources thereof, and (B) of its disbursements of any kind, in connection with such services and the purposes thereof. In each such case such information shall be set forth in such categories as the Secretary may prescribe.

(c) Nothing in this section shall be construed to require any employer or other person to file a report covering the services of such person by reason of his giving or agreeing to give advice to such employer or representing or agreeing to represent such employer before any court, administrative agency, or tribunal of arbitration or engaging or agreeing to engage in collective bargaining on behalf of such employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder.

(d) Nothing contained in this section shall be construed to require an employer to file a report under subsection (a) unless he has made an expenditure, payment, loan, agreement, or arrangement of the kind described therein. Nothing contained in this section shall be construed to require any other person to file a report under subsection (b) unless he was a party to an agreement or arrangement of the kind described therein.

(e) Nothing contained in this section shall be construed to require any regular officer, supervisor, or employee of an employer to file a report in connection with services rendered to such employer nor shall any employer be required to file a report covering expenditures made to any regular officer, supervisor, or employee of an employer as compensation for service as a regular officer, supervisor, or employee of such employer.

(f) Nothing contained in this section shall be construed as an amendment to, or modification of the rights protected by, section 8(c) of the National Labor Relations Act, as amended.

(g) The term "interfere with, restrain, or coerce" as used in this section means interference, restraint, and coercion which, if done with respect to the exercise of rights guaranteed in section 7 of the National Labor Relations Act, as amended, would, under section 8(a) of such Act, constitute an unfair labor practice.

### **Attorney-Client Communications Exempted**

(29 U.S.C. 434)

SEC. 204. Nothing contained in this Act shall be construed to require an attorney who is a member in good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of this Act any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

### **Reports Made Public Information**

(29 U.S.C. 435)

SEC. 205. (a)<sup>3</sup> The contents of the reports and documents filed with the Secretary pursuant to sections 201, 202, **203, and 211** shall be public information, and the Secretary may publish any information and data which he obtains pursuant to the provisions of this title. The Secretary may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

(b)<sup>4</sup> The Secretary shall by regulation make reasonable provision for the inspection and examination, on the request of any person, of the information and data contained in any report or other document filed with him pursuant to section 201, 202, **203, or 211**.

(c)<sup>5</sup> The Secretary shall by regulation provide for the furnishing by the Department of Labor of copies of reports or other documents filed with the Secretary pursuant to this title, upon payment of a charge based upon the cost of the service. The Secretary shall make available without payment of a charge, or require any person to furnish, to such State agency as is designated by law or by the Governor of the State in which such person has his principal place of business or headquarters, upon request of the Governor of such State, copies of any reports and documents filed by such person with the Secretary pursuant to section 201, 202, **203, or 211**, or of information and data contained therein. No person shall be required by reason of any law of any State to furnish to any officer or agency of such State any information included in a report filed by such person with the Secretary pursuant to the provisions of this title, if a copy of such report, or of the portion thereof containing such information, is furnished to such officer or agency. All moneys received in payment of such charges fixed by the Secretary pursuant to this subsection shall be deposited in the general fund of the Treasury.

### **Retention of Records**

(29 U.S.C. 436)

SEC. 206. Every person required to file any report under this title shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Secretary may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

### **Effective Date**

(29 U.S.C. 437)

SEC. 207. (a) Each labor organization shall file the initial report required under section 201(a) within ninety days after the date on which it first becomes subject to this Act.

(b)<sup>6</sup>Each person required to file a report under section 201(b), 202, 203(a), **the second sentence of section 203(b), or section 211** shall file such report within ninety days after the end of each of its fiscal years; except that where such person is subject to section 201(b), 202, 203(a), **the second sentence of section 203(b), or section 211**, as the case may be, for only a portion of such a fiscal year (because the date of enactment of this Act occurs during such person's fiscal year or such person becomes subject to this Act during its fiscal year) such person may consider that portion as the entire fiscal year in making such report.

## Rules and Regulations

(29 U.S.C. 438)

SEC. 208. The Secretary shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under this title and such other reasonable rules and regulations (including rules prescribing reports concerning trusts in which a labor organization is interested) as he may find necessary to prevent the circumvention or evasion of such reporting requirements. In exercising his power under this section the Secretary shall prescribe by general rule simplified reports for labor organizations or employers for whom he finds that by virtue of their size a detailed report would be unduly burdensome, but the Secretary may revoke such provision for simplified forms of any labor organization or employer if he determines, after such investigation as he deems proper and due notice and opportunity for a hearing, that the purposes of this section would be served thereby.

## Criminal Provisions

(29 U.S.C. 439)

SEC. 209. (a) Any person who willfully violates this title shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(b) Any person who makes a false statement or representation of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact, in any document, report, or other information required under the provisions of this title shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(c) Any person who willfully makes a false entry in or willfully conceals, withholds, or destroys any books, records, reports, or statements required to be kept by any provision of this title shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(d) Each individual required to sign reports under sections 201 and 203 shall be personally responsible for the filing of such reports and for any statement contained therein which he knows to be false.

## Civil Enforcement

(29 U.S.C. 440)

SEC. 210. Whenever it shall appear that any person has violated or is about to violate any of the provisions of this title, the Secretary may bring a civil action for such relief (including injunctions) as may be appropriate. Any such action may be brought in the district court of the United States where the

violation occurred or, at the option of the parties, in the United States District Court for the District of Columbia.

## **Surety Company Reports<sup>7</sup>**

(29 U.S.C. 441)

**SEC. 211. Each surety company which issues any bond required by this Act or the Employee Retirement Income Security Act of 1974 shall file annually with the Secretary, with respect to each fiscal year during which any such bond was in force, a report, in such form and detail as he may prescribe by regulation, filed by the president and treasurer or corresponding principal officers of the surety company, describing its bond experience under each such Act, including information as to the premiums received, total claims paid, amounts recovered by way of subrogation, administrative and legal expenses and such related data and information as the Secretary shall determine to be necessary in the public interest and to carry out the policy of the Act. Notwithstanding the foregoing, if the Secretary finds that any such specific information cannot be practicably ascertained or would be uninformative, the Secretary may modify or waive the requirement for such information.**

## **TITLE III -- TRUSTEESHIPS**

### **Reports**

(29 U.S.C. 461)

**SEC. 301. (a)** Every labor organization which has or assumes trusteeship over any subordinate labor organization shall file with the Secretary within thirty days after the date of the enactment of this Act or the imposition of any such trusteeship, and semiannually thereafter, a report, signed by its president and treasurer or corresponding principal officers, as well as by the trustees of such subordinate labor organization, containing the following information: (1) the name and address of the subordinate organization; (2) the date of establishing the trusteeship; (3) a detailed statement of the reason or reasons for establishing or continuing the trusteeship; and (4) the nature and extent of participation by the membership of the subordinate organization in the selection of delegates to represent such organization in regular or special conventions or other policy-determining bodies and in the election of officers of the labor organization which has assumed trusteeship over such subordinate organization. The initial report shall also include a full and complete account of the financial condition of such subordinate organization as of the time trusteeship was assumed over it. During the continuance of a trusteeship the labor organization which has assumed trusteeship over a subordinate labor organization shall file on behalf of the subordinate labor organization the annual financial report required by section 201(b) signed by the president and treasurer or corresponding principal officers of the labor organization which has assumed such trusteeship and the trustees of the subordinate labor organization.

(b) The provisions of section 201(c), 205, 206, 208, and 210 shall be applicable to reports filed under this title.

(c) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(d) Any person who makes a false statement or representation of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact, in any report required under the provisions of this

section or willfully makes any false entry in or willfully withholds, conceals, or destroys any documents, books, records, reports, or statements upon which such report is based, shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(e) Each individual required to sign a report under this section shall be personally responsible for the filing of such report and for any statement contained therein which he knows to be false.

### **Purposes for Which a Trusteeship May Be Established**

(29 U.S.C. 462)

SEC. 302. Trusteeships shall be established and administered by a labor organization over a subordinate body only in accordance with the constitution and bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures, or otherwise carrying out the legitimate objects of such labor organization.

### **Unlawful Acts Relating to Labor Organization Under Trusteeship**

(29 U.S.C. 463)

SEC. 303. (a) During any period when a subordinate body of a labor organization is in trusteeship, it shall be unlawful (1) to count the vote of delegates from such body in any convention or election of officers of the labor organization unless the delegates have been chosen by secret ballot in an election in which all the members in good standing of such subordinate body were eligible to participate or (2) to transfer to such organization any current receipts or other funds of the subordinate body except the normal per capita tax and assessments payable by subordinate bodies not in trusteeship: *Provided*, That nothing herein contained shall prevent the distribution of the assets of a labor organization in accordance with its constitution and bylaws upon the bona fide dissolution thereof.

(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

### **Enforcement**

(29 U.S.C. 464)

SEC. 304. (a) Upon the written complaint of any member or subordinate body of a labor organization alleging that such organization has violated the provisions of this title (except section 301) the Secretary shall investigate the complaint and if the Secretary finds probable cause to believe that such violation has occurred and has not been remedied he shall, without disclosing the identity of the complainant, bring a civil action in any district court of the United States having jurisdiction of the labor organization for such relief (including injunctions) as may be appropriate. Any member or subordinate body of a labor organization affected by any violation of this title (except section 301) may bring a civil action in any district court of the United States having jurisdiction of the labor organization for such relief (including injunctions) as may be appropriate.

(b) For the purpose of actions under this section, district courts of the United States shall be deemed to have jurisdiction of a labor organization (1) in the district in which the principal office of such labor

organization is located, or (2) in any district in which its duly authorized officers or agents are engaged in conducting the affairs of the trusteeship.

(c) In any proceeding pursuant to this section a trusteeship established by a labor organization in conformity with the procedural requirements of its constitution and bylaws and authorized or ratified after a fair hearing either before the executive board or before such other body as may be provided in accordance with its constitution or bylaws shall be presumed valid for a period of eighteen months from the date of its establishment and shall not be subject to attack during such period except upon clear and convincing proof that the trusteeship was not established or maintained in good faith for a purpose allowable under section 302. After the expiration of eighteen months the trusteeship shall be presumed invalid in any such proceeding and its discontinuance shall be decreed unless the labor organization shall show by clear and convincing proof that the continuation of the trusteeship is necessary for a purpose allowable under section 302. In the latter event the court may dismiss the complaint or retain jurisdiction of the cause on such conditions and for such period as it deems appropriate.

## **Report to Congress**

(29 U.S.C. 465)

SEC. 305. The Secretary shall submit to the Congress at the expiration of three years from the date of enactment of this Act a report upon the operation of this title.

## **Complaint by Secretary**

(29 U.S.C. 466)

SEC. 306. The rights and remedies provided by this title shall be in addition to any and all other rights and remedies at law or in equity: *Provided*, That upon the filing of a complaint by the Secretary the jurisdiction of the district court over such trusteeship shall be exclusive and the final judgment shall be *res judicata*.

## **TITLE IV - ELECTIONS**

### **Terms of Office; Election Procedures**

(29 U.S.C. 481)

SEC. 401. (a) Every national or international labor organization, except a federation of national or international labor organizations, shall elect its officers not less often than once every five years either by secret ballot among the members in good standing or at a convention of delegates chosen by secret ballot.

(b) Every local labor organization shall elect its officers not less often than once every three years by secret ballot among the members in good standing.

(c) Every national or international labor organization, except a federation of national or international labor organizations, and every local labor organization, and its officers, shall be under a duty, enforceable at the suit of any bona fide candidate for office in such labor organization in the district court of the United States in which such labor organization maintains its principal office, to comply with all reasonable requests of any candidate to distribute by mail or otherwise at the candidate's expense

campaign literature in aid of such person's candidacy to all members in good standing of such labor organization and to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members, and whenever such labor organizations or its officers authorize the distribution by mail or otherwise to members of campaign literature on behalf of any candidate or of the labor organization itself with reference to such election, similar distribution at the request of any other bona fide candidate shall be made by such labor organization and its officers, with equal treatment as to the expense of such distribution. Every bona fide candidate shall have the right, once within 30 days prior to an election of a labor organization in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization who are subject to a collective bargaining agreement requiring membership therein as a condition of employment, which list shall be maintained and kept at the principal office of such labor organization by a designated official thereof. Adequate safeguards to insure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots.

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(d) Officers of intermediate bodies, such as general committees, system boards, joint boards, or joint councils, shall be elected not less often than once every four years by secret ballot among the members in good standing or by labor organization officers representative of such members who have been elected by secret ballot.

(e) In any election required by this section which is to be held by secret ballot a reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall be eligible to be a candidate and to hold office (subject to section 504 and to reasonable qualifications uniformly imposed) and shall have the right to vote for or otherwise support the candidate or candidates of his choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by such organization or any member thereof. Not less than fifteen days prior to the election notice thereof shall be mailed to each member at his last known home address. Each member in good standing shall be entitled to one vote. No member whose dues have been withheld by his employer for payment to such organization pursuant to his voluntary authorization provided for in a collective bargaining agreement shall be declared ineligible to vote or be a candidate for office in such organization by reason of alleged delay or default in the payment of dues. The votes cast by members of each local labor organization shall be counted, and the results published, separately. The election officials designated in the constitution and bylaws or the secretary, if no other official is designated, shall preserve for one year the ballots and all other records pertaining to the election. The election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this title.

(f) When officers are chosen by a convention of delegates elected by secret ballot, the convention shall be conducted in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provisions of this title. The officials designated in the constitution and bylaws or the secretary, if no other is designated, shall preserve for one year the credentials of the delegates and all minutes and other records of the convention pertaining to the election of officers.

(g) No moneys received by any labor organization by way of dues, assessment, or similar levy, and no moneys of an employer shall be contributed or applied to promote the candidacy of any person in an election subject to the provisions of this title. Such moneys of a labor organization may be utilized for notices, factual statements of issues not involving candidates, and other expenses necessary for the holding of an election.

(h) If the Secretary, upon application of any member of a local labor organization, finds after hearing in accordance with the Administrative Procedure Act that the constitution and bylaws of such labor organization do not provide an adequate procedure for the removal of an elected officer guilty of serious

misconduct, such officer may be removed, for cause shown and after notice and hearing, by the members in good standing voting in a secret ballot conducted by the officers of such labor organization in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of this title.

(i) The Secretary shall promulgate rules and regulations prescribing minimum standards and procedures for determining the adequacy of the removal procedures to which reference is made in subsection (h).

## **Enforcement**

(29 U.S.C. 482)

SEC. 402. (a) A member of a labor organization-

(1) who has exhausted the remedies available under the constitution and bylaws of such organization and of any parent body, or

(2) who has invoked such available remedies without obtaining a final decision within three calendar months after their invocation,

may file a complaint with the Secretary within one calendar month thereafter alleging the violation of any provision of section 401 (including violation of the constitution and bylaws of the labor organization pertaining to the election and removal of officers). The challenged election shall be presumed valid pending a final decision thereon (as hereinafter provided) and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.

(b) The Secretary shall investigate such complaint and, if he finds probable cause to believe that a violation of this title has occurred and has not been remedied, he shall, within sixty days after the filing of such complaint, bring a civil action against the labor organization as an entity in the district court of the United States in which such labor organization maintains its principal office to set aside the invalid election, if any, and to direct the conduct of an election or hearing and vote upon the removal of officers under the supervision of the Secretary and in accordance with the provisions of this title and such rules and regulations as the Secretary may prescribe. The court shall have power to take such action as it deems proper to preserve the assets of the labor organization.

(c) If, upon a preponderance of the evidence after a trial upon the merits, the court finds-

(1) that an election has not been held within the time prescribed by

section 401, or

(2) that the violation of section 401 may have affected the outcome of an election,

the court shall declare the election, if any, to be void and direct the conduct of a new election under supervision of the Secretary and, so far as lawful and practicable, in conformity with the constitution and bylaws of the labor organization. The Secretary shall promptly certify to the court the names of the persons elected, and the court shall thereupon enter a decree declaring such persons to be the officers of the labor organization. If the proceeding is for the removal of officers pursuant to subsection (h) of section 401, the Secretary shall certify the results of the vote and the court shall enter a decree declaring



whether such persons have been removed as officers of the labor organization.

(d) An order directing an election, dismissing a complaint, or designating elected officers of a labor organization shall be appealable in the same manner as the final judgment in a civil action, but an order directing an election shall not be stayed pending appeal.

### **Application of Other Laws**

(29 U.S.C. 483)

SEC. 403. No labor organization shall be required by law to conduct elections of officers with greater frequency or in a different form or manner than is required by its own constitution or bylaws, except as otherwise provided by this title. Existing rights and remedies to enforce the constitution and bylaws of a labor organization with respect to elections prior to the conduct thereof shall not be affected by the provisions of this title. The remedy provided by this title for challenging an election already conducted shall be exclusive.

### **Effective Date**

(29 U.S.C. 484)

SEC. 404. The provisions of this title shall become applicable-

(1) ninety days after the date of enactment of this Act in the case of a labor organization whose constitution and bylaws can lawfully be modified or amended by action of its constitutional officers or governing body, or

(2) where such modification can only be made by a constitutional convention of the labor organization, not later than the next constitutional convention of such labor organization after the date of enactment of this Act, or one year after such date, whichever is sooner. If no such convention is held within such one-year period, the executive board or similar governing body empowered to act for such labor organization between conventions is empowered to make such interim constitutional changes as are necessary to carry out the provisions of this title.

## **TITLE V-SAFEGUARDS FOR LABOR ORGANIZATIONS**

### **Fiduciary Responsibility of Officers of Labor Organizations**

(29 U.S.C. 501)

SEC. 501. (a) The officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group. It is, therefore, the duty of each such person, taking into account the special problems and functions of a labor organization, to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization, and to account to the organization for any profit received by him in whatever capacity in connection with transactions conducted by him or under his direction on behalf of the organization. A general exculpatory provision

in the constitution and bylaws of such a labor organization or a general exculpatory resolution of a governing body purporting to relieve any such person of liability for breach of the duties declared by this section shall be void as against public policy.

(b) When any officer, agent, shop steward, or representative of any labor organization is alleged to have violated the duties declared in subsection (a) and the labor organization or its governing board or officers refuse or fail to sue or recover damages or secure an accounting or other appropriate relief within a reasonable time after being requested to do so by any member of the labor organization, such member may sue such officer, agent, shop steward, or representative in any district court of the United States or in any State court of competent jurisdiction to recover damages or secure an accounting or other appropriate relief for the benefit of the labor organization. No such proceeding shall be brought except upon leave of the court obtained upon verified application and for good cause shown which application may be made ex parte. The trial judge may allot a reasonable part of the recovery in any action under this subsection to pay the fees of counsel prosecuting the suit at the instance of the member of the labor organization and to compensate such member for any expenses necessarily paid or incurred by him in connection with the litigation.

(c) Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

## Bonding

(29 U.S.C. 502)

SEC. 502. (a)<sup>8</sup> Every officer, agent, shop steward, or other representative or employee of any labor organization (other than a labor organization whose property and annual financial receipts do not exceed \$5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded **to provide protection against loss by reason of acts of fraud or dishonesty on his part directly or through connivance with others.** The bond of each such person shall be fixed at the beginning of the organization's fiscal year and shall be in an amount not less than 10 per centum of the funds handled by him and his predecessor or predecessors, if any, during the preceding fiscal year, but in no case more than \$500,000. If the labor organization or the trust in which a labor organization is interested does not have a preceding fiscal year, the amount of the bond shall be, in the case of a local labor organization, not less than \$1,000, and in the case of any other labor organization or of a trust in which a labor organization is interested, not less than \$10,000. Such bonds shall be individual or schedule in form, and shall have a corporate surety company as surety thereon. Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse, or otherwise exercise custody or control of the funds or other property of a labor organization or of a trust in which a labor organization is interested. No such bond shall be placed through an agent or broker or with a surety company in which any labor organization or any officer, agent, shop steward, or other representative of a labor organization has any direct or indirect interest. Such surety company shall be a corporate surety which holds a grant of authority from the Secretary of the Treasury under the Act of July 30, 1947 (6 U.S.C. 6-13), as an acceptable surety on Federal bonds: **Provided, That when in the opinion of the Secretary a labor organization has made other bonding arrangements which would provide the protection required by this section at comparable cost or less, he may exempt such labor organization from placing a bond through a surety company holding such grant of authority.**

(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

### **Making of Loans; Payment of Fines**

(29 U.S.C. 503)

SEC. 503. (a) No labor organization shall make directly or indirectly any loan or loans to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to the labor organization in excess of \$2,000.

(b) No labor organization or employer shall directly or indirectly pay the fine of any officer or employee convicted of any willful violation of this Act.

(c) Any person who willfully violates this section shall be fined not more than \$5,000 or imprisoned for not more than one year, or both.

### **Prohibition Against Certain Persons Holding Office**

(29 U.S.C. 504)

SEC. 504. (a) No person who is or has been a member of the Communist Party<sup>9</sup> or who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of title II or III of this Act,<sup>10</sup> **any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve -**

- (1) as a consultant or adviser to any labor organization,
- (2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,
- (3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or
- (4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or
- (5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,

during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person

convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, the United States district court for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements under section 994(a) of title 28, United States Code, determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the court shall hold a hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The court's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection.

(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

(c) For the purpose of this section-

(1) A person shall be deemed to have been "convicted" and under the disability of "conviction" from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

(2) A period of parole shall not be considered as part of a period of imprisonment.

(d) Whenever any person-

(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

(2) has filed an appeal of that conviction,

any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.

### **Amendment to Section 302, Labor Management Relations Act, 1947**

SEC. 505. Subsections (a), (b), and (c) of section 302 of the Labor Management Relations Act, 1947, as amended, are amended to read as follows:

<sup>11</sup>SEC. 302. (a) It shall be unlawful for any employer or association of employers or any person who acts as a labor relations expert, adviser, or consultant to an employer or who acts in the interest of an employer to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value-

- (1) to any representative of any of his employees who are employed in an industry affecting commerce; or
  - (2) to any labor organization, or any officer or employee thereof, which represents, seeks to represent, or would admit to membership, any of the employees of such employer who are employed in an industry affecting commerce; or
  - (3) to any employee or group or committee of employees of such employer employed in an industry affecting commerce in excess of their normal compensation for the purpose of causing such employee or group or committee directly or indirectly to influence any other employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing; or
  - (4) to any officer or employee of a labor organization engaged in an industry affecting commerce with intent to influence him in respect to any of his actions, decisions, or duties as a representative of employees or as such officer or employee of such labor organization.
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(b)(1) It shall be unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subsection (a).

(2) It shall be unlawful for any labor organization, or for any person acting as an officer, agent, representative, or employee of such labor organization, to demand or accept from the operator of any motor vehicle (as defined in section 10101 of Title 49)<sup>12</sup> employed in the transportation of property in commerce, or the employer of any such operator, any money or other thing of value payable to such organization or to an officer, agent, representative or employee thereof as a fee or charge for the unloading, or in connection with the unloading, of the cargo of such vehicle: *Provided*, That nothing in this paragraph shall be construed to make unlawful any payment by an employer to any of his employees as compensation for their services as employees.

(c) The provisions of this section shall not be applicable (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: *Provided*, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner; (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents): *Provided*, That (A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, together with such neutral persons as the representatives of the employers and the representatives of

employees may agree upon and in the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; (6) with respect to money or other thing of value paid by any employer to a trust fund established by such representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, (B) child care centers for preschool and school age dependents of employees, or (C) financial assistance for employee housing:<sup>13</sup> *Provided*, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: *Provided further*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: *Provided further*, That no such legal services shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended, or this Act; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959; or (9) with respect to money or other things of value paid by an employer to a plant, area or industrywide labor management committee established for one or more of the purposes set forth in section 5(b) <sup>14</sup> of the Labor Management Cooperation Act of 1978.<sup>15</sup>

**[The remaining subsections, (d) through (g), of section 302 of the Labor Management Relations Act, 1947, are found at 29 U.S.C. 186(d) through (g).]**

## **TITLE VI -- MISCELLANEOUS PROVISIONS**

### **Investigations**

(29 U.S.C. 521)

SEC. 601. (a) The Secretary shall have power when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act (except title I or amendments made by this Act to other statutes) to make an investigation and in connection therewith he may enter such places and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto. The Secretary may report to interested

persons or officials concerning the facts required to be shown in any report required by this Act and concerning the reasons for failure or refusal to file such a report or any other matter which he deems to be appropriate as a result of such an investigation.

(b) For the purpose of any investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

### **Extortionate Picketing**

(29 U.S.C. 522)

SEC. 602. (a) It shall be unlawful to carry on picketing on or about the premises of any employer for the purpose of, or as part of any conspiracy or in furtherance of any plan or purpose for, the personal profit or enrichment of any individual (except a bona fide increase in wages or other employee benefits) by taking or obtaining any money or other thing of value from such employer against his will or with his consent.

(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

### **Retention of Rights Under Other Federal and State Laws**

(29 U.S.C. 523)

SEC. 603. (a) Except as explicitly provided to the contrary, nothing in this Act shall reduce or limit the responsibilities of any labor organization or any officer, agent, shop steward, or other representative of a labor organization, or of any trust in which a labor organization is interested, under any other Federal law or under the laws of any State, and, except as explicitly provided to the contrary, nothing in this Act shall take away any right or bar any remedy to which members of a labor organization are entitled under such other Federal law or law of any State.

(b) Nothing contained in titles I, II, III, IV, V, or VI of this Act shall be construed to supersede or impair or otherwise affect the provisions of the Railway Labor Act, as amended, or any of the obligations, rights, benefits, privileges, or immunities of any carrier, employee, organization, representative, or person subject thereto; nor shall anything contained in said titles (except section 505) of this Act be construed to confer any rights, privileges, immunities, or defenses upon employers, or to impair or otherwise affect the rights of any person under the National Labor Relations Act, as amended.

### **Effect on State Laws**

(29 U.S.C. 524)

SEC. 604. Nothing in this Act shall be construed to impair or diminish the authority of any State to enact and enforce general criminal laws with respect to robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, or assault which inflicts grievous bodily injury, or conspiracy to commit any of such crimes.

### **Service of Process**

(29 U.S.C. 525)

SEC. 605. For the purposes of this Act, service of summons, subpoena, or other legal process of a court of the United States upon an officer or agent of a labor organization in his capacity as such shall constitute service upon the labor organization.

### **Administrative Procedure Act**

(29 U.S.C. 526)

SEC. 606. The provisions of the Administrative Procedure Act shall be applicable to the issuance, amendment, or rescission of any rules or regulations or any adjudication, authorized or required pursuant to the provisions of this Act.

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### **Other Agencies and Departments**

(29 U.S.C. 527)

SEC. 607. In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any such agency as he may find to be practicable and consistent with law. The Secretary may utilize the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such information and facilities as he may request for his assistance in the performance of his functions under this Act. The Attorney General or his representative shall receive from the Secretary for appropriate action such evidence developed in the performance of his functions under this Act as may be found to warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.

### **Criminal Contempt**

(29 U.S.C. 528)

SEC. 608. No person shall be punished for any criminal contempt allegedly committed outside the immediate presence of the court in connection with any civil action prosecuted by the Secretary or any other person in any court of the United States under the provisions of this Act unless the facts constituting such criminal contempt are established by the verdict of the jury in a proceeding in the district court of the United States, which jury shall be chosen and empaneled in the manner prescribed by the law governing trial juries in criminal prosecutions in the district courts of the United States.

### **Prohibition on Certain Discipline by Labor Organization**

(29 U.S.C. 529)

SEC. 609. It shall be unlawful for any labor organization, or any officer, agent, shop steward, or other representative of a labor organization, or any employee thereof to fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which he is entitled under the provisions of this



Act. The provisions of section 102 shall be applicable in the enforcement of this section.

### **Deprivation of Rights Under Act by Violence**

(29 U.S.C. 530)

SEC. 610. It shall be unlawful for any person through the use of force or violence, or threat of the use of force or violence, to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of this Act. Any person who willfully violates this section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

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### **Separability Provisions**

(29 U.S.C. 531)

SEC. 611. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

### **TITLE VII -- AMENDMENTS TO THE LABOR MANAGEMENT RELATIONS ACT, 1947, AS AMENDED**

**[The text of sections 701 through 707 is not included here. However, the complete text of Title VII, Amendments to the Labor Management Relations Act, 1947, As Amended, may be found in Public Law 86-257.]**

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### **Endnotes**

(1) This revised text has been prepared by the U.S. Department of Labor.

(2) Section 320 of Public Law 95-598 (92 Stat. 2678), Nov. 6, 1978, substituted "cases under Title 11 of the United States Code" for "bankruptcy".

(3) Prior to amendment by section 2(a) of Public Law 89-216, the first sentence of section 205(a) read as follows: "Sec. 205. (a) The contents of the reports and documents filed with the Secretary pursuant to sections 201, 202, and 203 shall be public information, and the Secretary may publish any information and data which he obtains pursuant to the provisions of this title."

(4) Prior to amendment by section 2(b) of Public Law 89-216, section 205(b) read as follows: "(b) The Secretary shall by regulation make reasonable provision for the inspection and examination, on the request of any person, of the information and data contained in any report or other document filed with him pursuant to section 201, 202, or 203."

(5) Prior to amendment by section 2(c) of Public Law 89-216, the second sentence of section 205(c) read as follows: "The Secretary shall make available without payment of a charge, or require any person to furnish, to such State agency as is designated by law or by the Governor of the State in which such

person has his principal place of business or headquarters upon request of the Governor of such State, copies of any reports and documents filed by such person with the Secretary pursuant to section 201, 202, or 203, or of information and data contained therein."

(6) Prior to amendment by section 2(d) of Public Law 89-216, section 207(b) read as follows: "(b) Each person required to file a report under section 201(b), 202, 203(a), or the second sentence of 203(b) shall file such report within ninety days after the end of each of its fiscal years; except that where such person is subject to section 201(b), 202, 203(a), or the second sentence of 203(b), as the case may be, for only a portion of such a fiscal year (because the date of enactment of this Act occurs during such person's fiscal year or such person becomes subject to this Act during its fiscal year) such person may consider that portion as the entire fiscal year in making such report."

(7) Section 211 was added by section 3 of Public Law 99-216 (79 Stat. 888); section 111(a)(2)(D) of Public Law 93-406 (88 Stat. 852), Sept. 2, 1974, substituted "Employee Retirement Income Security Act of 1974" for "Welfare and Pension Plans Disclosure Act".

(8) Prior to amendment by section 1 of Public Law 89-216, the first sentence of section 502(a) read as follows: "Sec. 502(a). Every officer, agent, shop steward, or other representative or employee of any labor organization (other than a labor organization whose property and annual financial receipts do not exceed \$5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded for the faithful discharge of his duties." Section 1 of Public Law 89-216 also added the proviso at the end of section 502(a).

(9) The U.S. Supreme Court, on June 7, 1965, held unconstitutional as a bill of attainder the section 504 provision which imposes criminal sanctions on Communist Party members for holding union office (*U.S. v. Brown*, 381 U.S. 437, 85 S. Ct. 1707).

(10) The following text shows changes made by Public Law 98-473, Oct. 12, 1984, 98 Stat. 2031, 2133, 2134 and by Public Law 100-182, Dec. 7, 1987, 101 Stat. 1266, 1269. Public Law 99-217, Dec. 26, 1985, 99 Stat. 1728, changed the effective date for the amendment made by Public Law 98-473, 98 Stat. 2031, from Nov. 1, 1986, to Nov. 1, 1987; Public Law 100-182, 101 Stat. 1266, made that amendment applicable only to crimes committed after Nov. 1, 1987.

(11) This reprinted text of subsections (a), (b), and (c) of section 302 of the Labor Management Relations Act, 1947, does not reflect the amended text as originally found in the Labor-Management Reporting and Disclosure Act of 1959. It does, however, reflect the legislative changes which have occurred to those subsections from 1959 through October 1991.

(12) In subsection (b)(2) of section 302 of the Labor Management Relations Act, 1947, the phrase "section 10101 of Title 49" was substituted for the phrase "part II of the Interstate Commerce Act [49 U.S.C. 301 et. seq.]" by section 3(b) of Public Law 95-473, October 17, 1978.

(13) Subsection (c)(7)(C) of section 302 of the Labor Management Relations Act, 1947, was added by section 1 of Public Law 101-273, April 18, 1990.

(14) Section 5(b) of the Labor Management Cooperation Act of 1978 probably means section 6(b) of Public Law 95-524 (92 Stat. 2020; 29 U.S.C. 175a note).

(15) Subsection (b)(7) of section 302 of the Labor Management Relations Act, 1947 was added by Public Law 91-86, Oct. 14, 1969; subsection (b)(8) by Public Law 93-95, Aug. 15, 1973; and subsection (b)(9)

by section 6(d) of Public Law 95-524, Oct. 27, 1978.

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EXHIBIT NO. 38

Westlaw.

26 U.S.C.A. § 401  
I.R.C. § 401

Page 1

▷

Effective: August 17, 2006

United States Code Annotated Currentness

Title 26. Internal Revenue Code (Refs &amp; Annos)

Subtitle A. Income Taxes (Refs &amp; Annos)

Chapter 1. Normal Taxes and Surtaxes (Refs &amp; Annos)

Subchapter D. Deferred Compensation, Etc. (Refs &amp; Annos)

Part I. Pension, Profit-Sharing, Stock Bonus Plans, Etc. (Refs &amp; Annos)

Subpart A. General Rule (Refs &amp; Annos)

→ § 401. Qualified pension, profit-sharing, and stock bonus plans

(a) **Requirements for qualification.**--A trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this section--

(1) if contributions are made to the trust by such employer, or employees, or both, or by another employer who is entitled to deduct his contributions under section 404(a)(3)(B) (relating to deduction for contributions to profit-sharing and stock bonus plans), or by a charitable remainder trust pursuant to a qualified gratuitous transfer (as defined in section 664(g)(1)), for the purpose of distributing to such employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with such plan;

(2) if under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or their beneficiaries (but this paragraph shall not be construed, in the case of a multiemployer plan, to prohibit the return of a contribution within 6 months after the plan administrator determines that the contribution was made by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) or the trust which is part of such plan is exempt from taxation under section 501(a), or the return of any withdrawal liability payment determined to be an overpayment within 6 months of such determination).; [FN1]

(3) if the plan of which such trust is a part satisfies the requirements of section 410 (relating to minimum participation standards); and

(4) if the contributions or benefits provided under the plan do not discriminate in favor of highly compensated employees (within the meaning of section 414(q)). For purposes of this paragraph, there shall be excluded from consideration employees described in section 410(b)(3)(A) and (C).

(5) **Special rules relating to nondiscrimination requirements.**--

(A) **Salaried or clerical employees.**--A classification shall not be considered discriminatory within the meaning of paragraph (4) or section 410(b)(2)(A)(i) merely because it is limited to salaried or clerical employees.

(B) **Contributions and benefits may bear uniform relationship to compensation.**--A plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the contributions or benefits of, or on behalf of, the employees under the plan bear a uniform relationship to the compensation (within the meaning of section 414(s) ) of such employees.

**(C) Certain disparity permitted.**--A plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the contributions or benefits of, or on behalf of, the employees under the plan favor highly compensated employees (as defined in section 414(q)) in the manner permitted under subsection (l).

**(D) Integrated defined benefit plan.**--

(i) **In general.**--A defined benefit plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the plan provides that the employer-derived accrued retirement benefit for any participant under the plan may not exceed the excess (if any) of--

(I) the participant's final pay with the employer, over

(II) the employer-derived retirement benefit created under Federal law attributable to service by the participant with the employer.

For purposes of this clause, the employer-derived retirement benefit created under Federal law shall be treated as accruing ratably over 35 years.

(ii) **Final pay.**--For purposes of this subparagraph, the participant's final pay is the compensation (as defined in section 414(q)(4)) paid to the participant by the employer for any year--

(I) which ends during the 5-year period ending with the year in which the participant separated from service for the employer, and

(II) for which the participant's total compensation from the employer was highest.

**(E) 2 or more plans treated as single plan.**--For purposes of determining whether 2 or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan--

(i) **Contributions.**--If the amount of contributions on behalf of the employees allowed as a deduction under section 404 for the taxable year with respect to such plans, taken together, bears a uniform relationship to the compensation (within the meaning of section 414(s)) of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate.

(ii) **Benefits.**--If the employees' rights to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Secretary to take account of the differences in such rates, the plans shall not be considered discriminatory merely because of the difference in such rates.

**(F) Social security retirement age.**--For purposes of testing for discrimination under paragraph (4)--

(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).

**(G) Governmental plans.**--Paragraphs (3) and (4) shall not apply to a governmental plan (within the meaning of section 414(d)).

(6) A plan shall be considered as meeting the requirements of paragraph (3) during the whole of any taxable year of the plan if on one day in each quarter it satisfied such requirements.

(7) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part satisfies the requirements of section 411 (relating to minimum vesting standards).

(8) A trust forming part of a defined benefit plan shall not constitute a qualified trust under this section unless the plan provides that forfeitures must not be applied to increase the benefits any employee would otherwise receive.

EXHIBIT NO. 39



# HOT SHEET

April 3, 2007

## Questions About the TEMPORARY MEA Dues Increase

Over the last 30 days since announcing the need for a temporary dues increase to cover the cost of fighting the City to retain retirement benefits, MEA has received many questions from members and fee payers.

There appears to be confusion about how to calculate the increase for each individual member or fee payer. Due to that confusion, the implementation date for that increase has been moved to pay period 8 (pay day 4/20/2007).

Use the formula below to calculate what the temporary increase will mean to you:

### MEA members

To calculate your new bi-weekly dues: Take the base dues amount per pay period (\$20.00) added to the temporary percentage (0.3% of your hourly rate multiplied by hours worked in the pay period (80)).

Example: E Step of CA II

Base dues amount per pay period	\$20.00
Hourly rate \$16.73 x 0.3% @ 80 hours	\$ 4.00
<b>TOTAL DUES PER PAY PERIOD</b>	<b>\$24.00</b>

### Fee Payers

To calculate your new bi-weekly fees: Take 93.4% of the base dues amount per pay period (\$18.68) added to 93.4% of the temporary percentage (0.3% of your hourly rate multiplied by hours worked in the pay period (80)).

Example: E Step of CA II

Base dues amount (currently 93.4%)	\$18.68
Hourly rate \$16.73 x 0.3% @ 80 hours x 93.4%	\$ 3.74
<b>TOTAL FEES PER PAY PERIOD</b>	<b>\$22.42</b>

This temporary dues increase will automatically sunset in July of 2009. It **WILL BE** monitored by the MEA Board on a regular basis and may be discontinued at any time before 2009. The Board may also adjust the temporary formula during this period. The Treasurer will alert the Board to any changes in MEA's financial condition which may eliminate or reduce the need for additional funds.

If you have any questions regarding these calculations, please call the MEA office at 619.264.6632 or 858.300.3888.

sdmea.org



# H O T S H E E T

sdmea.org



San Diego Municipal Employees Association  
9620 Chesapeake Drive, Suite 203  
San Diego, CA 92123  
619.264.6632  
FAX 858.300.3898

EXHIBIT NO. 40

[REDACTED]

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**From:** [REDACTED]  
**To:** [REDACTED]  
**Date:** 3/7/2007 1:21:02 PM  
**Subject:** Fwd: RE: please read

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Just an FYI regarding a letter that was sent to MEA reference the union dues increase that a couple of people have asked me about. Howard has responded to Kristene via e-mail regarding her concerns.

>>> Howard O. Guess, Jr. 3/7/2007 11:35 AM >>>

Kristene:

Thank you for your letter. We sincerely appreciate your feedback. MEA is structured on a representational democracy model like our federal, state and local governments. Members elect Board Directors who set policy and decide issue such as dues/fees. It is the obligation of the Board Director who represents you to keep people informed and see where you are on issues effecting MEA. MEA has one of the largest Boards of any association (union or otherwise) having 77 member Directors who debate, argue and ultimately vote on any policy. I appreciate that you may perceive this system to be unfair but history, both MEA's and the US's, shows it works well. It may not be prefect but nothing ever is.

The need to do something about representational costs has been discussed at Board for several months. Originally, the leadership wanted to wait until the beginning of July to make any changes. MEA is projecting a shortfall of \$500,000 in this year's budget due to the litigation, however. We have waited as long as we can! I wrote about it following Judge Barton's ruling and again in a PUL article. Representational costs since 2002 have soared. These costs include the litigation, negotiations, BPR, Managed Competition, and civil service/MOU representations. In addition, the cost of doing business has increased. MEA did not increase dues in 2005. A legal assessment could not capture all those costs. This year alone about 76% of the budget is dedicated to representational costs.

The only thing MEA did differently than it has from past practice is to voluntarily announce the dues increase by thirty-day written notice, in part because of the restructure. We felt this was the "right" thing to do to promote fairness and openness! We will also announce the restructure in the April PUL. Moreover, the restructure and formula will be reviewed by the Board each year at their insistence before the next budget is adopted and the restructure has a two year sunset provision which means it will lapse automatically unless voted to be continued by a future Board. Each year MEA has cut more social and recreational activities from its budget and will continue to look at other prudent cuts.

The major drawback to being a fee payer rather than a member is that you do not have the right to vote on anything; only members may vote. I appreciate that you and other fee payers may feel somewhat disenfranchised by this fact but you have the choice to pay a couple more dollars and become a member and get involved. Then you can vote, run for the Board etc. I want members and fee payers to have more voice! I want to continue and expand MEA's tradition of accountability. I hope you will work with me to help lead MEA into the future and keep our union strong.

Howard O. Guess Jr., MEA President